# **CHAPTER 1-19: ZONING**

## **ARTICLE I: TITLE AND INTENT**

#### Section

1-19-1.100 Title

1-19-1.110 Legislative authority and intent

1-19-1.120 Liberal construction

<u>1-19-1.130</u> Jurisdiction

#### Cross references:

Adequate public facilities, Chapter 1-20

Animals and fowl, see Chapter 1-5;

Buildings, see Chapter 1-6;

*Grading, erosion and sediment control, see Chapter 1-10;* 

Planning and development, see <u>Chapter 1-13</u>;

Storm water management, see <a href="Chapter 1-15.2"><u>Chapter 1-15.2</u></a>;

*Subdivision regulation, see <u>Chapter 1-16</u>;* 

*Trailers and trailer parks, see Chapter 1-17* 

#### Editor's note:

It should be noted that Ord. 94-12-107, approved and adopted July 12, 1994 was passed as a curative act in order to re-enact, ratify, confirm and validate this chapter.

#### Statutory reference:

Zoning ordinances authorized, see Md. Ann. Code, [Art. 66B, § 4.01] LAND USE ARTICLE TITLE 4.

#### **DIVISION 1. GENERALLY**

# **■§ 1-19-1.100. TITLE.**

This chapter will be known and may be cited as the Frederick County Zoning Ordinance. The zoning ordinance includes both the text of the regulations and the Official Zoning Map herein adopted.

(Ord. 77-1-78, § 40-10, 1-24-1977; Ord. 08-26-502, 10-14-2008)

Throughout this Chapter, CAPITALS INDICATE MATTER ADDED TO EXISTING LAW

## **■§ 1-19-1.110. LEGISLATIVE AUTHORITY AND INTENT.**

(A) This chapter is established in accordance with the provisions of Md. Ann. Code, [Art. 66B] LAND USE ARTICLE.

(Ord. 77-1-78, § 40-11, 1-24-1977)

(B) This chapter is adopted with the intent that regulations shall be made in accordance with the Comprehensive Development Plan and designed to control congestion in the streets; to secure the public safety; to promote health and the general welfare; to provide adequate light and air; to promote the conservation of natural resources, including the preservation of productive agricultural land; to prevent environmental pollution; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, recreation, parks and other public requirements. Such regulations shall be made with reasonable consideration, among other things, to the character of the district and its suitability for particular uses and with a view to conserving the value of buildings and encouraging the orderly development and the most appropriate use of land throughout the jurisdiction.

(Ord. 77-1-78, § 40-12, 1-24-1977; Ord. 08-26-502, 10-14-2008)

## **■§ 1-19-1.120. LIBERAL CONSTRUCTION.**

The terms of this chapter will be liberally construed and applied to promote its underlying purposes and policies as found in § 1-19-1.110 of this Code.

(Ord. 77-1-78, § 40-15, 1-24-1977; Ord. 08-26-502, 10-14-2008)

# **■** § 1-19-1.130. JURISDICTION.

The provisions of this chapter shall apply to all unincorporated lands within the territorial limits of the county, excluding properties and structures owned or used by the United States government and/or the state.

(Ord. 77-1-78, § 40-13, 1-24-1977; Ord. 08-26-502, 10-14-2008)

## ARTICLE II: ADMINISTRATION AND ENFORCEMENT

Section

#### Division 1. Administration

1-19-2.100 Zoning Administrator

1-19-2.110 Zoning certificate and building permit

1-19-2.120 Repairs and maintenance

1-19-2.130 Fees

<u>1-19-2.140</u> Questions of interpretation and enforcement

1-19-2.150 Board of Appeals

## 1-19-2.160 Planning Commission

### Division 2. Enforcement

<u>1-19-2.200</u> Complaints

1-19-2.210 Civil zoning infractions

1-19-2.220 Penalty

1-19-2.230 Civil actions

#### **DIVISION 1. ADMINISTRATION**

## **凤** § 1-19-2.100. ZONING ADMINISTRATOR.

- (A) It is the duty of the Zoning Administrator to administer and to enforce the provisions of this chapter in accordance with its administrative provisions.
- (B) The Zoning Administrator or his duly authorized agents have the right to enter and inspect any structure or land in order to verify that the structure or land complies with the provisions of this chapter.
- (C) The Zoning Administrator or his official agent has the power to take any lawful action to prevent or to abate a violation of this chapter.

(Ord. 77-1-78, § 40-30, 1-24-1977; Ord. 80-31-183, 10-7-1980; Ord. 83-9-276, 4-5-1983; Ord. 08-26-502, 10-14-2008)

# **■** § 1-19-2.110. ZONING CERTIFICATE AND BUILDING PERMIT.

- (A) Approval of Zoning Administrator required; application to essential services and accessory structures. It is unlawful to change the use, locate or to begin the new use, erection, construction, reconstruction, extension, conversion or structural alteration or development of any lot or structure without first obtaining a zoning certificate and building permit. No zoning certificate and building permit shall be issued unless it is approved by the Zoning Administrator. This provision does not apply to essential services or accessory structures of 150 square feet or less of floor area in compliance with the provisions of this chapter.
- (B) Submission and approval of site development plans prior to issuance. Every multifamily, townhouse, institutional, commercial or industrial development will submit and have approved site development plans, in accordance with §§ 1-19-2.160 and 1-19-3.300 through 1-19-3.300.4 of this Code, prior to the issuance of a zoning certificate and building permit.
- (C) Restrictions on use, arrangement and construction. Zoning certificates and building permits issued on the basis of approved site plans and applications authorize only the use, arrangement and construction set forth in such applications and plans and no other use, arrangement or construction. Use, arrangement or construction differing from that authorized is a violation of this chapter.

- (D) Application to certificates/permits approved prior to January 24, 1977. This chapter does not require a change in the plans, construction or designated use of any structure or lot for which a zoning certificate and building permit has been approved prior to January 24, 1977, provided such approved activity continues in compliance with all terms of the previously approved permits.
- (E) *Terms of certificates/permits*. A zoning certificate and building permit approval is void 1 year from date of issuance unless the use is established under the terms of the zoning certificate and building permit.
- (F) *Transferability/assignability*. A zoning certificate and building permit is nonassignable and nontransferable.
- (G) *Revocation for noncompliance*. A zoning certificate and building permit is revocable upon noncompliance with any conditions or requirements imposed under this chapter.
- (H) *Filing fees.* A filing fee shall be charged in accordance with the fee schedule provided in this chapter.

(Ord. 08-26-502, 10-14-2008; Ord. 09-22-526, 7-14-2009; Ord. 09-27-531, 11-3-2009)

## **■§ 1-19-2.120. REPAIRS AND MAINTENANCE.**

No provision of this chapter shall prevent the enforcement of orders to strengthen or restore to a safe condition any structure declared to be unsafe by any official charged with protecting the public safety.

(Ord. 77-1-78, § 40-42(D), 1-24-1977; Ord. 08-26-502, 10-14-2008)

# **№** § 1-19-2.130. FEES.

(A) The [Board of County Commissioners] COUNTY GOVERNING BODY shall have the authority to establish [by resolution] fees for zoning related services specified in this chapter, but in no event shall the fee charged be more than the costs incurred by the county.

#### Zoning Certificates

- (1) All applicants for dwelling units; or unit.
- (2) All applicants for principal commercial or industrial structures or uses.
- (3) All other permitted uses.
- (4) All accessory structures or uses.
- (5) All additions, conversions, and renovations.

#### **Ordinance Amendments**

- (6) Map amendments.
- (7) Text amendments.

(8) Comprehensive rezoning/plan designation request.

Planned Unit Developments

- (9) Phase I plan.
- (10) Phase II plan.

Board of Appeals

- (11) Administrative appeal.
- (12) Variance.
- (13) Special exception.

Site Plans

- (14) Site plans.
- (15) Site plan reapproval.
- (16) Sketch site plan.

Miscellaneous Plans

- (17) Agricultural cluster plan.
- (18) Residential cluster plan.
- (B) No fees shall be charged to any government agency.

(Ord. 77-1-78, § 40-110, 1-24-1977; Ord. 87-22-454, 8-4-1987; Ord. 91-23-023, 8-20-1991; Ord. 08-26-502, 10-14-2008; Ord. 10-26-561, 11-9-2010; Ord. 11-25-591, 10-27-2011)

# **■§ 1-19-2.140. QUESTIONS OF INTERPRETATION AND ENFORCEMENT.**

All questions of interpretation and enforcement shall be first presented to the Zoning Administrator and then such questions shall be presented to the Board of Appeals only on appeal from the decision of the Zoning Administrator, and recourse from the decisions of the Board of Appeals shall be to the courts as provided by law. In addition, certain provisions of this chapter are adopted and enforced as an agreement with the Federal Emergency Management Agency, National Flood Insurance Program regulations, and the Maryland Water Resources Administration flood management grant program regulations. Should a dispute arise concerning the interpretation of these provisions of the chapter, the counsel of the Federal Emergency Management Agency, the Maryland Department of Natural Resources, or the National Flood Insurance regulations shall prevail. The Frederick County floodplain management regulations shall be amended as required by federal regulations. Any amendments to flood hazard management regulations are subject to the approval of the Federal Emergency Management Agency and the Maryland Department of Natural Resources.

(Ord. 77-1-78, § 40-91(D), 1-24-1977; Ord. 89-41-572, 6-6-1989; Ord. 08-26-502, 10-14-2008)

#### Cross reference:

Floodplain district regulations, see § <u>1-19-9.100</u>

## **№ § 1-19-2.150. BOARD OF APPEALS.**

- (A) (1) The [Board of County Commissioners] COUNTY COUNCIL shall appoint a Board of Appeals. The Board of Appeals shall consist of 5 members. The terms of office of the members of the Board is 3 years.
- (2) They are removable for cause, upon written charges, and after public hearing. Vacancies shall be filled for the unexpired terms of any member whose term becomes vacant. Members of the Board may receive such compensation as the [Board of County Commissioners] COUNTY [deem] DEEMS appropriate.
- (B) The [Board of County Commissioners] COUNTY COUNCIL shall designate 1 alternate member for the Board of Appeals, who may be empowered to sit on the Board in the absence of any member of the Board; and when the alternate is absent, the [Board of County Commissioners] COUNTY COUNCIL may designate a temporary alternate.
- (C) The Board shall adopt rules in accordance with the provisions of this chapter. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. The Chairman, or in the Chairman's absence, the acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, which shall be immediately filed in the office of the COMMUNITY DEVELOPMENT Division [of Planning], and shall be a public record.
- (D) The Board of Appeals shall have the following powers:
- (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this chapter;
- (2) To hear and decide special exceptions to the terms of the chapter upon which the Board is required to pass under this chapter;
- (3) To authorize upon appeal in specific cases a variance from the terms of this chapter, subject to the Board's administrative procedures;
- (4) To hear and decide approval requests for activities within the FEMA floodplain (under § <u>1-19-9.120</u>) and activities within danger reach areas (under § <u>1-19-9.220</u>);
- (5) To hear and decide approval requests for nonconforming uses (under § 1-19-4.230).
- (E) Three members of the Board shall constitute a quorum for the conducting of business.
- (Ord. 77-1-78, § 40-90(A)-(D), 1-24-1977; Ord. 02-13-309, 6-14-2002; Ord. 02-23-319, 11-12-2002; Ord. 08-26-502, 10-14-2008; Ord. 09-27-531, 11-3-2009)

## **■§ 1-19-2.160. PLANNING COMMISSION.**

- (A) The Planning Commission shall review site development plans when required by § <u>1-19-5.310</u> (Use Table) or as otherwise required in this chapter.
- (B) A Type I Planning Commission approved site development plan shall not be required for the reconstruction of an existing structure that has been substantially or wholly destroyed by a catastrophic event, if the structure will be reconstructed on the same footprint or foundation. The Zoning Administrator will process any request for the reconstruction of these structures; however, the Zoning Administrator may refer any request for approval of a site development plan under this section to the Planning Commission for approval. The reconstruction of the structure must comply with:
- (1) All other provisions of this chapter to the extent practicable, as determined by county staff; and
- (2) All applicable state and local codes and regulations in existence at the time of reconstruction.

(Ord. 77-1-78, § 40-73(A), 1-24-1977; Ord. 08-26-502, 10-14-2008; Ord. 09-05-509, 2-17-2009; Ord. 09-22-526, 7-14-2009)

#### **DIVISION 2. ENFORCEMENT**

## **■ § 1-19-2.200. COMPLAINTS.**

- (A) Any person may file a written complaint with the Zoning Administrator alleging a violation of this chapter. Such complaint will state the factual basis for the alleged violation of this chapter.
- (B) The Zoning Administrator will investigate and find as a matter of fact whether a violation of this chapter has occurred.
- (C) The Zoning Administrator shall keep public records in accordance with the county's records retention policy of all complaints and findings of fact disposing of alleged zoning violations.
- (D) Violations of the FEMA floodplain regulations set forth in §§  $\frac{1-19-9.100}{1-19-9.130}$  through  $\frac{1-19-9.130}{1-19-9.130}$  shall also be subject to the following:
- (1) The Federal Emergency Management Agency and the Maryland Department of the Environment shall be notified immediately in writing of any property or structure in violation of the floodplain section of this chapter.
- (2) New or renewal National Flood Insurance shall be denied for any structure remaining in violation or situated on property in violation of this chapter.

(Ord. 77-178, § 40-32(A), 1-24-1977; Ord. 89-41-572, 6-6-1989; Ord. 07-29-469, 9-4-2007; Ord. 08-26-502, 10-14-2008; Ord. 09-27-531, 11-3-2009)

# **■§ 1-19-2.210. CIVIL ZONING INFRACTIONS.**

- (A) [Pursuant to Md. Ann. Code, Art. 66B, §§ 7.01 and 7.02] ANY violation of any of the provisions of this entire chapter, which is <u>Chapter 1-19</u>, entitled Zoning (also known as the zoning ordinance for Frederick County, Maryland), is a civil zoning violation and shall be called a civil zoning infraction. If, after investigation, a civil zoning infraction is believed to exist, the Zoning Administrator or his authorized agent shall deliver a citation to the property owner and other person or persons responsible for the infraction. If the person is unable to be located personally, the Zoning Administrator or his authorized agent may post the citation in a conspicuous place on the property and mail a copy of same to the person, which shall be sufficient for delivery under this section.
- (B) The citation, as provided for in this section, shall be in writing and shall contain the following:
- (1) The name and address of the person charged;
- (2) The nature of the violation;
- (3) The location of the violation;
- (4) The date(s) of the violation;
- (5) The amount of the fine assessed;
- (6) The manner, location and time in which the fine may be paid (or violation corrected, if applicable);
- (7) The person's right to elect to stand trial for the violation; and
- (8) A certification by the Zoning Administrator or his authorized agent attesting to the truth of the matters set forth.
- (C) A fine of \$100 is hereby imposed upon any person responsible for a civil zoning infraction for each violation. Each day such violation is permitted to exist shall be considered a separate infraction. All fines shall be made payable to the Treasurer of Frederick County, Maryland; and submitted to the COMMUNITY DEVELOPMENT Division [of Planning and Zoning].
- (D) A person who receives a citation may elect to stand trial for the offense by filing with the Zoning Administrator a notice of intention to stand trial. The notice shall be given at least 5 days before the date of payment as set forth in the citation. On receipt of the notice of intention to stand trial, the Zoning Administrator shall forward to the district court for Frederick County, Maryland, a copy of the citation and the notice of intention to stand trial. On receipt of the citation, the district court shall schedule the case for trial and notify the defendant of the trial date. All fines, penalties, or forfeitures collected by the district court for zoning infractions shall be remitted to the [Board of County Commissioners of Frederick County, Maryland] COUNTY, through the County Treasurer.
- (E) If a person who receives a citation for an infraction fails to pay the fine by the date of payment set forth on the citation and fails to file a notice of intention to stand trial, a formal notice of the infraction shall be sent to the person's last known address. If the citation is not

satisfied within 15 days from the date of the notice, the person is liable for a fine of \$200 for each infraction. If, after 35 days, the citation is not satisfied, the Zoning Administrator may request adjudication of the case through the district court. The district court shall schedule the case for trial and summon the defendant to appear.

- (F) Adjudication of an infraction under this subsection is not a criminal conviction, nor does it impose any of the civil disabilities ordinarily imposed by a criminal conviction.
- (G) In a proceeding before the district court, the violation shall be prosecuted in the same manner and to the same extent as set forth for municipal infractions in Md. Ann. Code, [Art. 23A, § 3(B)(8) through (15)] LOCAL GOVERNMENT ARTICLE, TITLE 6. However, the County Attorney is hereby authorized to prosecute all civil zoning infractions under this section.
- (H) If a person is found by the district court to have committed a civil zoning infraction, he shall be liable for the costs of the proceedings in the district court.
- (I) Depending on the circumstances of each case and after consultation with the County Attorney, the Zoning Administrator has the discretionary authority to reduce or suspend all or a portion of the fine payable through his office.
- (J) Nothing contained in this section shall prohibit or prevent the Zoning Administrator, or anyone else, from seeking other legal remedies, such as injunctions or criminal prosecution.

(Ord. 83-9-276, 4-5-1983; Ord. 08-26-502, 10-14-2008; Ord. 09-27-531, 11-3-2009)

## **■ § 1-19-2.220. PENALTY.**

Any person who is convicted of failure to comply with this chapter is guilty of a misdemeanor and shall be fined no more than \$500 and/or 10 days in jail for each offense. Each day of such continuing violation may be found to be a separate misdemeanor.

(Ord. 77-1-78, § 40-32(D), 1-24-1977; Ord. 83-9-276, 4-5-1983; Ord. 93-06-070, 3-2-1993; Ord. 08-26-502, 10-14-2008)

# **■**§ 1-19-2.230. CIVIL ACTIONS.

The [Board of County Commissioners] COUNTY, the County Attorney, the Board of Appeals, the Planning Commission or any property owner who would be specifically damaged by a violation may take appropriate legal action to prevent or abate a violation of this chapter, including seeking an injunction, mandamus, abatement or other appropriate legal remedies.

(Ord. 77-1-78, § 40-32(C), 1-24-1977; Ord. 08-26-502, 10-14-2008)

## ARTICLE III: REVIEW AND APPROVAL PROCEDURES

Section

Division 1. Zoning Amendments

1-19-3.100 Zoning text amendments

<u>1-19-3.100.1</u> Purpose and intent

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1-19-3.100.2 Application
<u>1-19-3.100.3</u> Review and approval procedures
1-19-3.110 Zoning map amendments
<u>1-19-3.110.1</u> Purpose and intent
<u>1-19-3.110.2</u> Application
1-19-3.110.3 Review and approval procedures
<u>1-19-3.110.4</u> Approval criteria
1-19-3.110.5 Conditions
1-19-3.110.6 Continuances and withdrawal of applications
1-19-3.110.7 Special provisions for comprehensive zoning or rezoning
<u>1-19-3.110.8</u> Appeals
               Division 2. Special Exceptions, Variances, Approvals, and Appeals
1-19-3.200 Purpose and intent
<u>1-19-3.200.1</u> Application
<u>1-19-3.200.2</u> General review and approval procedures
<u>1-19-3.210</u> Special exceptions
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                                   Division 3. Site Plan Review
1-19-3.300 Purpose and intent
1-19-3.300.1 Review and approval procedures
<u>1-19-3.300.2</u> Concept plan
1-19-3.300.3 Site plan review application
<u>1-19-3.300.4</u> Approval criteria
                          Division 4. Optional Methods of Development
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(Reserved)

#### **DIVISION 1. ZONING AMENDMENTS**

## **■§ 1-19-3.100. ZONING TEXT AMENDMENTS.**

#### Editor's note:

Ord. 98-23-225, adopted Nov. 10, 1998, amended <u>Chapter 1-19</u> by deleting provisions formerly codified as §§ 1-19-66 through 1-19-77, which comprised part of former Div. 3 of Art. II, pertaining to amendments to this zoning ordinance and which derived from the following:

Ord. No.	Date	Ord. No.	Date
77-1-78	1-24-77	86-3-380	3-18-86
79-8-134	5-1-79	88-13-490	5-3-86
81-3-193	1-27-81	89-3-534	1-3-89
85-41-373	10-22-85	92-20-055	8-14-92

In addition, Ord. No. 98-23-225 enacted §§ 1-19-60—1-19-64, being provisions of a new Div. 3, and created a Div. 4, a new division consisting of new provisions in §§ 1-19-70—1-19-75 and amended provisions in §§ 1-19-78 and 1-19-79.

(Ord. 08-26-502, 10-14-2008)

## **■§ 1-19-3.100.1. PURPOSE AND INTENT.**

- (A) It may be periodically necessary for provisions of this chapter to be established, amended, or repealed through a zoning text amendment. This section establishes procedures for the zoning text amendment.
- (B) A zoning text amendment shall be initiated [only at the direction of the Board of County Commissioners] AS PROVIDED IN THE COUNTY CHARTER FOR THE ENACTMENT OF LEGISLATION.

(Ord. 98-23-225, 11-10-1999; Ord. 07-08-448, §5, 4-3-2007; Ord. 08-26-502, 10-14-2008; Ord. 09-27-531, 11-3-2009)

# **№ § 1-19-3.100.2. APPLICATION.**

The [Board of County Commissioners] COUNTY COUNCIL may initiate a zoning text amendment with no particular form required.

(Ord. 98-23-225, 11-10-1999; Ord. 07-08-448, §5, 4-3-2007; Ord. 08-26-502, 10-14-2008; Ord. 09-27-531, 11-3-2009)

## **■§ 1-19-3.100.3. REVIEW AND APPROVAL PROCEDURES.**

- (A) Planning Commission.
- (1) The Zoning Administrator shall refer the initial proposed zoning text amendment to the Planning Commission for a recommendation.
- (2) The Planning Commission will hold a public hearing prior to making its recommendation. A failure to make a recommendation within 62 days of the first public hearing shall be deemed as providing no recommendation on the request.
- (B) [Board of County Commissioners] COUNTY COUNCIL. The [Board of County Commissioners] COUNTY COUNCIL shall hold a public hearing on the proposed zoning text amendment.
- (C) Any person shall have the right to submit oral and/or written testimony at the public hearing.
- (D) The [Board of County Commissioners] COUNTY GOVERNING BODY may revise, amend, supplant or modify any provision of the proposed zoning text amendment in whole or in part. No additional referral to the Planning Commission is required.
- (E) Public notice.
- (1) Newspaper.
- (a) The Zoning Administrator shall cause notices of the public hearings of the Planning Commission and the [Board of County Commissioners] COUNTY COUNCIL to be published.
- (b) Public notice of the time and place of the Frederick County Planning Commission hearing, together with a summary of the proposed zoning text amendment, shall be published in at least 1 newspaper of general circulation in Frederick County at least 14 days prior to the hearing.
- (c) Public hearing notice of the time and place of the [Board of County Commissioners] COUNTY COUNCIL hearing[, together with a summary of the proposed zoning text amendment, shall be published in at least 1 newspaper of general circulation in Frederick County once each week for 2 successive weeks with the first such publication of notice at least 14 days prior to the hearing] SHALL BE IN ACCORDANCE WITH THE PROCEDURES STATED IN THE COUNTY CHARTER.

(Ord. 98-23-225, 11-10-1999; Ord. 99-01-228, 2-16-1999; Ord. 08-26-502, 10-14-2008; Ord. 09-27-531, 11-3-2009)

# **■§ 1-19-3.110. ZONING MAP AMENDMENTS**

#### Editor's note:

See the editor's note 1-19-3.100.

# **■**§ 1-19-3.110.1. PURPOSE AND INTENT.

The zoning map may be amended by changing the zoning district boundaries or by changing from one zoning district to another. A zoning map amendment may be accomplished through an

individual zoning map amendment, comprehensive zoning or rezoning, or a floating zone reclassification. This section establishes procedures for the zoning map amendment and floating zone reclassification.

(Ord. 09-27-531, 11-3-2009)

## **№** 1-19-3.110.2. APPLICATION.

- (A) An application for an individual zoning map amendment or floating zone reclassification may be made by any property owner or his duly authorized agent, a contract purchaser or any other person with at least a 50% proprietary interest in the area covered by any individual zoning map amendment or floating zone reclassification application. Each individual zoning map amendment or floating zone reclassification application must cover a contiguous area.
- (B) The Zoning Administrator shall review the applications for individual map amendments and floating zone reclassifications as filed and may:
- (1) Reject the application, if:
- (a) The information is incomplete; or
- (b) The current zoning status of the property is being reviewed under a comprehensive, community, or corridor plan update and comprehensive rezoning process, unless a waiver is granted by the [Board of County Commissioners] COUNTY COUNCIL; or
- (c) The amendment has been filed for the whole or part of land which was subject to a map amendment request for a zoning district designation which was opposed, denied, or dismissed [by the Board of County Commissioners] on the merits within 12 months from the date of the [Board's] signed [resolution] DECISION.
- (2) Accept the application where all the required information has been provided and the appropriate fee paid.
- (C) A zoning map amendment or floating zone reclassification application shall be filed with the Zoning Administrator during normal office hours. The application shall include the following:
- (1) Completed application form;
- (2) The required fee as set forth in § 1-19-2.130 of this chapter;
- (3) Ownership verification: copy of deed or if contract purchaser, submit copy of contract;
- (4) A boundary plat prepared and sealed by a surveyor registered in the State of Maryland, prepared in accordance with the minimum standards of practice, showing metes and bounds (courses and distances);
- (5) A list of names and addresses of all adjoining property owners, whether or not separated by streets, railroads, or other rights-of-way. This list must be obtained from the latest Frederick County property tax assessments records;

- (6) A vicinity map covering the area within at least 1,000 feet of the boundaries of the land proposed to be reclassified, including the existing zoning classification of all land shown on the map; and
- (7) A written explanation justifying the amendment or floating zone reclassification, setting forth in sufficient detail to advise county officials required to review the application.
- (D) The Zoning Administrator shall retain custody of all application files, which will be available for public inspection during normal office hours. Any person may obtain, at their expense, copies of any and all papers in the file.

(Ord. 98-23-225, 11-10-1999; Ord. 08-26-502, 10-14-2008; Ord. 09-27-531, 11-3-2009; Ord. 12-08-603, 4-17-2012)

## **■§ 1-19-3.110.3. REVIEW AND APPROVAL PROCEDURES.**

- (A) Planning Commission.
- (1) An application for an individual zoning map amendment or a floating zone reclassification shall be reviewed by the COMMUNITY DEVELOPMENT Division [of Planning] staff which shall prepare a report and recommendation to the Planning Commission. After completion of this staff report the application shall be presented to the Planning Commission for consideration.
- (2) Within 90 days after acceptance of the application by the Zoning Administrator, the Planning Commission shall hold a public hearing on the application for individual zoning map amendment or floating zone reclassification. The Planning Commission shall forward its recommendation to the [Board of County Commissioners] COUNTY COUNCIL within 62 days of its first public hearing. A failure to make a recommendation within 62 days of the first public hearing shall be deemed as providing no recommendation on the request.
- (B) [Board of County Commissioners] COUNTY COUNCIL.
- (1) The [Board of County Commissioners] COUNTY COUNCIL shall hold a public hearing on the application for an individual zoning map amendment or floating zone reclassification.
- (2) Any person shall have the right to submit oral and/or written testimony at the hearing.
- (3) An application for individual zoning map amendment or floating zone reclassification shall be deemed denied if the [Board of County Commissioners] COUNTY COUNCIL has not approved the application within 90 days of the conclusion of the public hearing.
- (C) Public notice.
- (1) Sign(s). The applicant shall place a sign on the property proposed to be reclassified, within 10 feet of each property line that abuts a public road. If the property does not abut a public road, a sign shall be placed in such a manner so that it may be most readily seen by the public.
- (a) The Zoning Administrator shall provide the required sign(s).
- (b) The sign(s) shall be placed on the property at least 30 days prior to the public hearing of the Planning Commission or [Board of County Commissioners] COUNTY COUNCIL on the zoning map amendment.

- (c) The sign(s) shall be affixed to a rigid board, protected from the weather, and maintained at all times by the applicant.
- (d) The applicant shall file an affidavit certifying that the sign(s) has been posted and maintained for the required period of time.
- (e) If any person removes or tampers with a posted sign(s) during the above 30 day posting period, that person, upon conviction, shall be guilty of a misdemeanor, as provided in § 1-19-2.220.
- (2) *Mail*. The Zoning Administrator will make a good faith effort to notify the owners of all properties adjoining a property for which an application for zoning map amendment or floating zone reclassification application has been accepted. Such notice shall be by first class mail at least 14 days prior to such public hearing and contain the date, time, place and nature of any public hearing to be held concerning the application.
- (a) Adjoining property owners shall include the owners of properties immediately contiguous to the applicant's property as well as those separated by streets, railroads, or other rights-of-way as set forth in  $\S 1-19-3.110.2(C)(5)$ .
- (b) Appearance by a property owner at the public hearing shall constitute a waiver of any defect in this notice requirement.
- (3) *Newspaper*. Notice of the time and place of the [Board of County Commissioners] COUNTY COUNCIL public hearing, together with a summary of the proposed zoning map amendment or floating zone reclassification shall be published in at least 1 newspaper of general circulation in Frederick County once each week for 2 successive weeks with the first such publication of notice at least 14 days prior to the hearing.
- (4) The Zoning Administrator shall have the authority to postpone a public hearing if the applicant has not complied with the requirements for posting of property as detailed in this section.

(Ord. 98-23-225, 11-10-1999; Ord. 08-26-502, 10-14-2008; Ord. 09-27-531, 11-3-2009)

# **■§ 1-19-3.110.4. APPROVAL CRITERIA.**

- (A) Approval or disapproval of a request for an individual zoning map amendment or floating zone reclassification shall be determined through review of several criteria. The Planning Commission and [Board of County Commissioners] COUNTY COUNCIL review will include, but not be limited to:
- (1) Consistency with the comprehensive plan;
- (2) Availability of public facilities;
- (3) Adequacy of existing and future transportation systems;
- (4) Compatibility with existing and proposed development;
- (5) Population change; and

- (6) The timing of development and facilities.
- (B) In addition to the criteria above, approval or disapproval of a request for an individual zoning map amendment shall be granted only where a finding has been made that there was:
- (1) A substantial change in the character of the neighborhood where the property is located; or
- (2) A mistake in the existing zoning classification.

(Ord. 98-23-225, 11-10-1999; Ord. 08-26-502, 10-14-2008; Ord. 09-27-531, 11-3-2009)

## **№** 1-19-3.110.5. CONDITIONS.

The [Board of County Commissioners] COUNTY COUNCIL may impose, upon the granting of a zoning map amendment or floating zone reclassification, such additional restrictions, conditions, or limitations as may be deemed appropriate to preserve, enhance, or protect the general character and design of the lands and improvements being zoned or rezoned or of the surrounding or adjacent lands and improvements. The [Board] COUNTY may, upon the zoning or rezoning of any land, retain or reserve the power and authority to approve or disapprove the design of structures, construction, landscaping or other improvements, alterations and changes made or to be made on the subject land or lands to assure conformity with the intent and purposes of this chapter. Conditions imposed or requested may not include the prohibition of any uses expressly permitted in the requested zoning district.

(Ord. 98-23-225, 11-10-1999; Ord. 08-26-502, 10-14-2008; Ord. 09-27-531, 11-3-2009)

## **№** 1-19-3.110.6. CONTINUANCES AND WITHDRAWAL OF APPLICATIONS.

- (A) Withdrawal. By filing a written request with the Zoning Administrator prior to any public hearing, the applicant may withdraw the application for zoning map amendment or floating zone reclassification.
- (B) A request by the applicant for continuance of a map amendment or floating zone reclassification application hearing may be granted by the [Board of County Commissioners] COUNTY COUNCIL for good cause shown. The applicant shall be responsible for any costs to the county caused by the continuance.

(Ord. 98-23-225, 11-10-1999; Ord. 08-26-502, 10-14-2008)

# § 1-19-3.110.7. SPECIAL PROVISIONS FOR COMPREHENSIVE ZONING OR REZONING.

In the case of a comprehensive zoning or rezoning, only the following review and approval procedures shall apply.

(A) The Planning Commission shall hold a public hearing and cause notice of the hearing to be published in a newspaper of general circulation in the county in accordance with § 1-19-3.110.3. The Planning Commission shall forward a recommendation to the [Board of County Commissioners] COUNTY GOVERNING BODY within 62 days of the first public hearing.

- (B) The [Board of County Commissioners] COUNTY COUNCIL shall hold a public hearing and cause notice of the hearing to be published in accordance with § 1-19-3.110.3. Any person shall have the right to submit oral and/or written testimony at the hearing.
- (C) Posting of property will not be required.

(Ord. 77-1-78, § 40-101(K), 1-24-1977; Ord. 98-23-225, 11-10-1999; Ord. 08-26-502, 10-14-2008; Ord. 09-27-531, 11-3-2009)

## **■§ 1-19-3.110.8. APPEALS.**

[Pursuant to the authority granted in Md. Ann. Code, Art. 66B, § 4.08(f), the Board of County Commissioners] THE COUNTY may appeal to the circuit court of the county and thence to the Court of Special Appeals of Maryland, or, upon certiorari, to the Court of Appeals of Maryland, any decision concerning zoning made by the Board of Appeals, and the [Board of County Commissioners] COUNTY may file an answer and be a party to any zoning appeal filed in the circuit court of the county concerning a decision made by the [Board of County Commissioners] COUNTY and may appeal any decision of the circuit court of the county to the Court of Special Appeals of Maryland, or, upon certiorari, to the Court of Appeals of Maryland.

(Ord. 77-1-78, § 40-101(M), 1-24-1977; Ord. 08-26-502, 10-14-2008; Ord. 09-27-531, 11-3-2009)

# DIVISION 2. SPECIAL EXCEPTIONS, VARIANCES, APPROVALS, AND APPEALS

# **■**§ 1-19-3.200. PURPOSE AND INTENT.

This section establishes general procedures for the Board of Appeals to hear and decide applications for special exceptions, variances, approvals, and appeals, as provided for in this chapter.

(Ord. 09-27-531, 11-3-2009)

## **№** § 1-19-3.200.1. APPLICATION.

- (A) An application for a special exception, variance, approval, or appeal shall be made on forms approved by the COMMUNITY DEVELOPMENT Division [of Planning].
- (B) The application for a special exception, variance, approval, or appeal and the information required in subsection (C) below shall be filed with the Zoning Administrator a minimum of 45 days prior to the regularly scheduled monthly meeting of the Board of Appeals.
- (C) Required information for a special exception, variance, or approval shall include:
- (1) Plot plan or accurate drawing of the property showing the distances of all existing and proposed structures from all property lines, driveways and parking areas;
- (2) Name and address of each person owning property adjacent to the subject property;

- (3) Plans, architectural drawings, photographs, elevations, specifications or other detailed information fully depicting the exterior appearance of any existing structures on the property, including signs and the proposed construction;
- (4) In addition, for all applications for a special exception or approval, a statement shall be provided explaining in detail how the use is to be operated. The following information is required to be submitted:
- (a) Hours of operation;
- (b) Number of anticipated employees;
- (c) Equipment involved; and
- (d) Any special conditions or limitations which the applicant proposes for adoption by the Board.
- (D) The application for an appeal shall be filed in accordance with § 1-19-3.230 within 30 days after the date of the action or decision being appealed. Required information for an appeal shall include a copy of any written decision that is being appealed and all other information pertinent to the appeal.
- (E) Fee shall be paid at the time of filing of application in accordance with the fee schedule established in this chapter.

(Ord. 77-1-78, §40-91(C), 1-24-1977; Ord. 79-19-145, 8-7-1979; Ord. 00-28-270, 9-7-2000; Ord. 02-21-317, 10-15-2002; Ord. 05-27-388, 10-25-2005; Ord. 08-26-502, 10-14-2008; Ord. 09-27-531, 11-3-2009)

## **■§ 1-19-3.200.2 GENERAL REVIEW AND APPROVAL PROCEDURES.**

- (A) Board of Appeals.
- (1) The Board of Appeals shall hold a public hearing before making a decision on any appeal or other matter within its powers. Upon accepting an application for an appeal or other matter, the Zoning Administrator shall schedule the public hearing by the Board of Appeals. Appeals and applications filed in proper form shall be numbered serially, docketed and placed upon the calendar of the Board.
- (B) The Board of Appeals shall make an on site inspection of the premises involved in the application for a special exception, variance, approval, or appeal.
- (C) Public notice.
- (1) Sign(s). For all special exception, variance, approval, and appeal applications the applicant shall erect a sign within 10 feet of each property line that abuts a public road. If the property does not abut a public road, a sign shall be placed in such a manner so that it may be most readily seen by the public. If the land lies within more than one block as shown on a plat recorded in the county land records, then a sign shall be erected on the land in each such block.
- (a) The Zoning Administrator shall provide the required sign(s).
- (b) The sign(s) shall be placed on the property within 3 days after acceptance of the application.

- (c) The sign(s) shall be affixed to a rigid board, protected from the weather, and maintained at all times by the applicant until a decision has been made by the Board of Appeals.
- (d) The applicant shall file an affidavit certifying that the sign(s) has been posted and maintained for the required time period.
- (e) If any person removes or tampers with a posted sign during the above posting period, that person, upon conviction, shall be guilty of a misdemeanor, as provided in § 1-19-2.220.
- (2) *Mail*. All adjoining property owners, whether separated by streets, railroads, or other rights-of-way, shall be notified by the Zoning Administrator by mail, of the time, date, place, and nature of the public hearing.
- (3) *Newspaper*. The Zoning Administrator shall cause to be published once a notice of the public hearing. This notice shall be published in a newspaper of general circulation in the county not less than 15 days prior to the date set for the hearing.

(Ord. 77-1-78, §40-91(C), 1-24-1977; Ord. 79-19-145, 8-7-1979; Ord. 00-28-270, 9-7-2000; Ord. 02-21-317, 10-15-2002; Ord. 05-27-388, 10-25-2005; Ord. 08-26-502, 10-14-2008; Ord. 09-27-531, 11-3-2009)

## **№ § 1-19-3.210. SPECIAL EXCEPTIONS.**

- (A) An application for a special exception may be made only by persons with a financial, contractual or proprietary interest in the property for which a special exception is requested.
- (B) A grant of a special exception is basically a matter of development policy, rather than an appeal based on administrative error or on hardship in a particular case. The Board of Appeals should consider the relation of the proposed use to the existing and future development patterns. A special exception shall be granted when the Board finds that:
- (1) The proposed use is consistent with the purpose and intent of the Comprehensive Development Plan and of this chapter; and
- (2) The nature and intensity of the operations involved in or conducted in connection with it and the size of the site in relation to it are such that the proposed use will be in harmony with the appropriate and orderly development of the neighborhood in which it is located; and
- (3) Operations in connection with the special exception at the proposed location shall not have an adverse effect such as noise, fumes, vibration or other characteristics on neighboring properties above and beyond those inherently associated with the special exception at any other location within the zoning district; and
- (4) Parking areas will comply with the off street parking regulations of this chapter and will be screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum safety.
- (5) The road system providing access to the proposed use is adequate to serve the site for the intended use.

- (C) In addition to the general requirements listed above, uses requiring a special exception shall be subject to the specific requirements for each use outlined in §§ 1-19-8.320 through 1-19-8.355 of this Code.
- (D) A special exception approval may be granted in accordance with the general and specific requirements enumerated in this section. The Board of Appeals may, in addition to other requirements imposed under this chapter and is hereby authorized to add to the specific requirements any additional conditions that it may deem necessary to protect adjacent properties, the general neighborhood, and its residents or workers. Violation of such additional conditions, when made a part of the terms under which the special exception permit is granted, is a violation of this chapter and may be grounds for termination of the special exception.
- (E) The Board of Appeals shall not grant a special exception unless and until:
- (1) A written application for a special exception is submitted indicating the section of this chapter under which the special exception is sought and stating the grounds on which it is requested; and
- (2) A public hearing has been held; and the Board had made a finding of fact that the special exception requested meets the general and specific requirements outlined in this section.
- (F) The grant of special exception may include approval of customary incidental accessory uses as reviewed and approved by the Zoning Administrator.
- (G) No use or activity permitted as a special exception shall be enlarged or extended beyond the limits authorized in the grant of special exception. All enlargements, extensions, and changes in use shall require grants of special exception, as in the case of an original petition.
- (H) If a grant of special exception is denied, no new petition for the denied use on the same property shall be accepted by the Board of Appeals for 1 year after the date of denial of the petition.
- (I) A decision of the Board of Appeals granting a special exception will be void 5 years from date of approval by the Board of Appeals unless the use is established, a building permit is issued, construction has begun, or final site development plan approval has been received in accordance with the terms of the decision. Upon written request submitted to the Zoning Administrator no later than 1 month prior to the expiration date and for good cause shown by the applicant, a 1 time extension may be granted by the Zoning Administrator for a period not to exceed 6 months.

(Ord. 77-1-78, § 40-91(B), 1-24-1977; Ord. 82-19-263, 9-7-1982; Ord. 00-28-270, 9-7-2000; Ord. 08-26-502, 10-14-2008; Ord. 09-21-525, 6-4-2009; Ord. 09-27-531, 11-3-2009)

#### **№ § 1-19-3.220. VARIANCES.**

- (A) The Board of Appeals may authorize a variance in height, lot area and yard regulations.
- (B) An application for a variance shall be filed with the Board of Appeals only after refusal of zoning approval or an adverse determination has been issued by the Zoning Administrator.

- (C) The Board of Appeals shall not grant a variance unless and until a public hearing is held and all of the following criteria are met:
- (1) First, the Board of Appeals shall find that special conditions and circumstances exist which are unique to the land or structure involved and which are not applicable to other lands or structures in the same district.
- (2) Upon making this finding the Board of Appeals shall also find that the following criteria are met:
- (a) That the special conditions and circumstances do not result from the actions of the applicant; and
- (b) The literal interpretation of the provisions of this chapter would result in unreasonable hardship and deprive the applicant of rights commonly enjoyed by other properties in the same district under terms of this chapter; and
- (c) That granting the variance will not confer on the applicant any special privilege that is denied by this chapter to other lands or structures in the same district; and
- (d) That the granting of the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- (D) In granting the variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, is a violation of this chapter.
- (E) Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of this chapter in the zone involved, or any use expressly or by implication prohibited by the terms of this chapter in said zone.
- (F) Under no circumstances shall the Board of Appeals grant a variance to a nonconforming structure for the portion of structure determined by the Zoning Administrator to be nonconforming.
- (G) A decision of the Board of Appeals granting a variance will be void 2 years from date of approval by the Board of Appeals unless the use is established, a building permit is issued, construction has begun, or final site development plan approval has been received in accordance with the terms of the decision. Upon written request submitted to the Zoning Administrator no later than 1 month prior to the expiration date and for good cause shown by the applicant, a 1 time extension may be granted by the Zoning Administrator for a period not to exceed 6 months.

(Ord. 77-1-78, § 40-91(A), 1-24-1977; Ord. 08-26-502, 10-14-2008; Ord. 09-27-531, 11-3-2009)

## **■§ 1-19-3.230. APPEALS.**

(A) Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the jurisdiction affected by any decisions of the administrative officer. Such appeal shall be taken within 30 days after the date of the action or decision being appealed, by filing with the officer from whom the appeal is taken and with the Board of Appeals

a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

- (B) An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Appeals after notice of appeal shall have been filed with him that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown.
- (C) The Board of Appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.
- (D) In exercising the above-mentioned powers such Board may, in conformity with MD. Ann. Code, [Art. 66B] LAND USE ARTICLE, as amended, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

(Ord. 77-1-78, § 40-90(E)-(H), 1-24-1977; Ord. 05-27-388, 10-25-2005; Ord. 08-26-502, 10-14-2008; Ord. 09-27-531, 11-3-2009)

#### **DIVISION 3. SITE PLAN REVIEW**

# **■§ 1-19-3.300. PURPOSE AND INTENT.**

- (A) The [Board of County Commissioners] COUNTY has determined that certain uses require site development plan review and approval by the Planning Commission (see § 1-19-2.160).
- (B) Site plan review is intended to promote safe and efficient development that maximizes compatibility and connections with existing or anticipated surrounding land uses and the natural environment through careful consideration of site development, transportation and parking, public utilities, natural features, and common areas, as required by this chapter.

(Ord. 09-22-526, 7-14-2009)

# **■§ 1-19-3.300.1 REVIEW AND APPROVAL PROCEDURES.**

- (A) A use subject to site development plan approval as required in § 1-19-5.310 (Use Table) or subject to the site plan review process as otherwise required in this chapter shall be reviewed through 1 of 3 procedures to ensure that the proposed development complies with the requirements of this chapter. The 3 procedures are:
- (1) Type I Planning Commission. The purpose of the Type I Planning Commission process is to provide for development review involving standards for design or review of uses permitted by this chapter which may be complex in nature requiring interpretation of County Comprehensive Plan policies or the requirements of the Frederick County Code. The Type I application shall be

circulated for multi- agency review prior to Planning Commission review. Type I - Planning Commission review and approval is required for all of the following:

- (a) Applications for site development plan approval where review and approval is not provided for through the Type II Limited or Type III Administrative site plan review processes.
- (b) Modifications to a Planning Commission approved site development plan involving an increase in building height or number of floors; modifications to landscaping or screening that reduce the number of plantings or opacity required in the initial Type I Planning Commission approval; requests for reduction in open space square footage; change in the type or square footage of an amenity; and modifications that increase the number of required parking and loading spaces.
- (2) Type II Limited. The purpose of the Type II Limited process is to provide for development review and approval by Planning Commission authorized representatives based on standards specified in the zoning ordinance. The Type II Limited application shall be processed at staff level and circulated for multi-agency review. Type II Limited applications shall be restricted to modifications provided through the Type III Administrative process or any one or more of the following minor modifications to Planning Commission approved site development plans provided that the modification does not require Planning Commission review of adequate public facilities, forest resource ordinance, or stormwater management requirements:
- (a) Minor modifications to utility location;
- (b) Minor modifications to parking and loading design required by physical site constraints that has no detrimental impact upon or that improves bicycle, pedestrian and traffic safety or circulation:
- (c) Building footprint modifications;
- (d) Minor landscaping modifications that do not constitute a material alteration of the Planning Commission approved site development plan and that do not require a Type I Planning Commission approval as provided in § 1-19-3.300.1(A)(1);
- (e) Minor modifications to pedestrian pathway location, open space or amenity design to improve access, safety, or efficiency, that do not require Type I Planning Commission approval as provided in § 1-19-3.300.1(A)(1).
- (3) Type III Administrative. The purpose of the Type III Administrative process is to provide for development review and approval by Planning Commission authorized representatives based on standards specified in the zoning ordinance. The Type III application shall be processed as a staff level single agency review and shall be restricted to any one or more of the following minor modifications, provided that the modification does not require adequate public facilities, forest resource ordinance, or stormwater management review:
- (a) A change in use approved by the Zoning Administrator;
- (b) Building footprint modifications of not more than 200 square feet provided that there is no increase in overall building footprint square footage;
- (c) Change of permitted and approved signs;

- (d) Minor landscaping modifications involving substitution of species that do not require Type I Planning Commission approval as provided in § 1-19-3.300.1(A)(1); or
- (e) Other minor modifications as established by the Zoning Administrator.
- (B) An applicant may request a Type I Planning Commission review at any time during a Type II Limited or Type III Administrative review process.
- (C) Planning Commission authorized representatives may require a Type I Planning Commission or Type II Limited review for a site development plan application permitted through the Type II Limited or Type III Administrative review process, where it is determined that the proposed modification may have an adverse impact on surrounding properties, public facilities, or is inconsistent with the initial Type I Planning Commission approval.
- (D) Each application involving site development plan approval, together with the required fee (§ 1-19-2.130) and other required plan submissions, including, but not limited to adequate public facilities ordinance studies, forest resource ordinance plans, sight-distance studies, stormwater management concepts and the information described below, shall be submitted to the [Division of Permitting and Development Review] COMMUNITY DEVELOPMENT DIVISION. The [Division of Permitting and Development Review] COMMUNITY DEVELOPMENT DIVISION shall not accept an application if it is determined that the information submitted is incomplete.

After the [Division of Permitting and Development Review] COMMUNITY DEVELOPMENT DIVISION deems that the application is complete, the site development plan will be scheduled for a Technical Advisory Committee (TAC) meeting for review by agency representatives and representatives of the applicant. The applicant may not file for a zoning certificate and building permit with the [Office] DEPARTMENT of Permits and Inspections before receiving site plan approval. Applications for site plan review shall be void if approval has not been received within 3 years, beginning on the date the application was accepted. A void application shall have no further status and must be resubmitted.

- (1) For all Type I Planning Commission site plan review applications, the applicant shall place a sign within 10 feet of each property line that abuts a public road. If the property does not abut a public road, a sign shall be placed in such a manner so that it may be most readily seen by the public.
- (a) The [Division of Permitting and Development Review] COMMUNITY DEVELOPMENT DIVISION shall provide the required sign(s).
- (b) The sign(s) shall be placed on the property at least 30 days prior to the initial Planning Commission meeting at which the Type I Planning Commission site development plan is to be considered.
- (c) The sign(s) shall be affixed to a rigid board, protected from the weather, and maintained at all times by the applicant until the initial Planning Commission meeting is held.
- (d) The applicant shall file an affidavit certifying that the sign(s) has been posted and maintained for the required time period.

- (2) If any person removes or tampers with a posted sign during the above 30 day posting period, that person, upon conviction, shall be guilty of a misdemeanor, as provided in § 1-19-2.220.
- (E) The Planning Commission may attach conditions to the approval of a site development plan in order to ensure that the proposal will conform to the provisions of this chapter.
- (F) Approval of a site development plan submitted under the provisions of this division shall expire 3 years after the date of the decision by the Planning Commission or its authorized representatives unless construction has begun as defined by "start of construction" in § 1-19-11.100. The length of site plan approval may not exceed the length of the approval under the Adequate Public Facilities Ordinance (APFO) if APFO approval is required.

(Ord. 77-1-78, § 40-73(B), (C), 1-24-1977; Ord. 82-19-263, 9-7-1982; Ord. 85-11-343, 3-26-1985; Ord. 87-22-454, 8-4-1987; Ord. 94-06-101, 5-31-1994; Ord. 96-17-169, 8-6-1996; Ord. 00-21-263, § 1, 7-18-2000; Ord. 02-21-317, 10-15-2002; Ord. 05-27-388, 10-25-2005; Ord. 08-26-502, 10-14-2008; Ord. 09-22-526, 7-14-2009; Ord. 11-06-572, 5-17-2011)

### **■§ 1-19-3.300.2 CONCEPT PLAN.**

- (A) Where specified within the Zoning Ordinance, concept approval shall be required as the first step in the development approval process (§ 1-19-7.500(D)).
- (B) Unless otherwise approved by the Zoning Administrator, the concept plan shall include the following elements:
- (1) An application in a form acceptable to the [Division of Permitting and Development Review] COMMUNITY DEVELOPMENT DIVISION;
- (2) A map drawn at 1 inch equals 100 feet or greater scale showing property lines, all existing natural and man-made features, and a vicinity map;
- (3) A map identifying the type and location of all proposed uses including:
- (a) The generalized location, footprint, and exterior elevation of all proposed buildings including height, number of stories, number of attached units, and the location of doors and windows;
- (b) All proposed parking locations and generalized information regarding the use of an alternate parking plan including shared, joint, community, or other means;
- (c) The generalized location of all roadways, sidewalks, and other public or private facilities adjacent to and necessary for development of the site;
- (4) Existing structures on all lots facing and adjacent to the proposed development including the height, setbacks;
- (5) Photographs of the subject parcel and all facing and adjacent lots and structures used to determine height and setbacks.

(Ord. 07-27-467, 6-19-2007; Ord. 08-26-502, 10-14-2008; Ord. 11-06-572, 5-17-2011)

# **■§ 1-19-3.300.3 SITE PLAN REVIEW APPLICATION.**

An application submitted for site plan review shall include the following information:

- (A) A map of the subject property at a convenient scale;
- (B) A vicinity map at a scale of 1 inch equals 2,000 feet or more to the inch, indicating the location of the property with respect to surrounding property and streets. The map will show all streets and highways within 2,000 feet of the applicant's property;
- (C) A topographic map of the property, at a minimum of 5 foot contour intervals, unless otherwise specified, showing the existing and proposed regrading surface of the land and the location of natural features, such as streams, rock outcrops, and wooded areas;
- (D) In accordance with the [Division of Permitting and Development Review] COMMUNITY DEVELOPMENT DIVISION checklist requirements a site development plan showing all existing and proposed improvements including but not limited to: proposed use; location and height of all buildings; location of existing and proposed rights-of-way; location and dimensions of all parking areas, drive aisles, and truck loading areas with access and egress drives thereto; location of sidewalks, pedestrian crossings, and existing or planned transit stops; location and type of any outdoor storage; location and type of any recreation facilities; proposed grading, landscaping, and screening plans; description of proposed method to provide buffer areas and landscaping where required; location, design and height of outdoor lighting facilities; building elevation for the purpose of depicting the location, size, and type of all signs; and the location, size and type of all proposed storm water management facilities;
- (E) A computation of the total areas of the lot, including the building floor area, building floor area for each type of proposed use, the roads and parking, green area, landscaped and screened areas, recreation areas as required, and total lot coverage;
- (F) Commercial or industrial uses will designate:
- (1) The specific uses proposed and the number of employees for which buildings are designed;
- (2) The type of power to be used for any manufacturing processes;
- (3) Type of wastes or by-products to be produced by any process and proposed method of disposal of such wastes or by-products; and
- (4) Such other information as may be required by the Planning Commission or its authorized representatives to determine compliance with the requirements with this chapter and the impact of a particular use on adjoining properties;
- (G) (1) Soil type(s) information shall be provided and appropriate boundaries shown. In the event "wet soils" are located on or within 100 feet of any proposed residential site plan, a soils delineation report shall be prepared by a soils scientist or professional engineer registered in the State of Maryland. The Planning Commission may waive this requirement if the "wet soils" are located within open space areas. The soils report shall be submitted for review by SCD prior to approval of the site plan by the Planning Commission or its authorized representatives unless a soils report was completed earlier within the development review process.

- (2) If residential structure(s) with basements are proposed within "wet soils" a geotechnical report is required to be submitted by a professional engineer registered in the State of Maryland. A note shall be placed on the site plan that all construction shall be in accordance with the findings of the geotechnical report.
- (3) Site plans may be prepared and submitted by an applicant. The submitted information, if found deficient or in error, may be required to be resubmitted over the certification of an engineer, architect, landscape architect, land surveyor or other certified professional. Site plans will be prepared to a scale of not smaller than 1 inch equals 100 feet, unless approved by the [Division of Permitting and Development Review] COMMUNITY DEVELOPMENT DIVISION; the sheet or sheets shall be no less than 18 inches by 20 inches nor more than 24 inches by 36 inches, including a 1-1/2 inch margin for binding along the left edge. A site plan may be prepared on one or more sheets, in which case, match lines and an index sheet shall be provided.

(Ord. 77-1-78, § 40-73(B), (C), 1-24-1977; Ord. 82-19-263, 9-7-1982; Ord. 85-11-343, 3-26-1985; Ord. 87-22-454, 8-4-1987; Ord. 94-06-101, 5-31-1994; Ord. 96-17-169, 8-6-1996; Ord. 00-21-263, § 1, 7-18-2000; Ord. 02-21-317, 10-15-2002; Ord. 05-27-388, 10-25-2005; Ord. 08-26-502, 10-14-2008; Ord. 09-22-526, passed 7-14-2009)

## **■§ 1-19-3.300.4 APPROVAL CRITERIA.**

Site development plan approval shall be granted when the Planning Commission or its authorized representatives find that the application for development has met the following criteria based upon the standards and provisions of this chapter:

- (A) *Site development*. Existing and anticipated surrounding land uses have been adequately considered in the design of the development and negative impacts have been minimized through such means as building placement or scale, landscaping, or screening, and an evaluation of lighting. Anticipated surrounding uses shall be determined based upon existing zoning and land use designations.
- (B) *Transportation and parking*. The transportation system and parking areas are adequate to serve the proposed use in addition to existing uses by providing safe and efficient circulation, and design consideration that maximizes connections with surrounding land uses and accommodates public transit facilities. Evaluation factors include: on-street parking impacts, off-street parking and loading design, access location and design, vehicular, bicycle, and pedestrian circulation and safety, and existing or planned transit facilities.
- (C) *Public utilities*. Where the proposed development will be served by publicly owned community water and sewer, the facilities shall be adequate to serve the proposed development. Where proposed development will be served by facilities other than publicly owned community water and sewer, the facilities shall meet the requirements of and receive approval from the Maryland Department of the Environment/the Frederick County Health Department.
- (D) *Natural features*. Natural features of the site have been evaluated and to the greatest extent practical maintained in a natural state and incorporated into the design of the development. Evaluation factors include topography, vegetation, sensitive resources, and natural hazards.

(E) *Common areas*. If the plan of development includes common areas and/or facilities, the Planning Commission as a condition of approval may review the ownership, use, and maintenance of such lands or property to ensure the preservation of such areas, property, and facilities for their intended purposes.

(Ord. 77-1-78, § 40-73(D), 1-24-1977; Ord. 08-26-502, 10-14-2008; Ord. 09-22-526, passed 7-14-2009)

# DIVISION 4. OPTIONAL METHODS OF DEVELOPMENT (RESERVED)

# ARTICLE IV: REGULATIONS APPLICABLE TO ALL DISTRICTS

Section

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#### Division 2. Nonconforming Lots, Structures and Uses

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## Division 5. General Lot Requirements

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#### Division 6. General Yard Requirements

- <u>1-19-4.600</u> Measurement of front yard depths
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- 1-19-4.620 Corner and through lots
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### **DIVISION 1. GENERALLY**

# **■§ 1-19-4.100. COMPLIANCE REQUIRED.**

No building, structure, or land shall hereinafter be used or occupied, and no building or structure or part thereof shall hereafter be altered, erected, constructed, or reconstructed, unless in conformity with all the regulations herein specified for the district in which it is located.

(Ord. 77-1-78, § 40-41, 1-24-1977; Ord. 08-26-502, 10-14-2008)

#### Editor's note:

Ord. 89-41-572, adopted June 6, 1989, deleted § 19-102, relative to floodplain development control, as derived from Ord. 77-1-78, § 40-48, adopted Jan. 24, 1977, and Ord. 82-19-263, adopted Sept. 7, 1982.

## **■§ 1-19-4.110. EXEMPTION OF ESSENTIAL SERVICES.**

- (A) As authorized in Chapter 2-13 of the Code of Public Local Laws of Frederick County, the [Board of County Commissioners] COUNTY may establish, extend and maintain water, sewerage, drainage and solid waste systems in the county. As specifically provided in § 2-13-3(D)(5)(III), in exercising these powers the [Board of County Commissioners] COUNTY shall not be subject to the provisions of any planning regulations or zoning ordinances enacted under the provisions of Article 66B of the Annotated Code of Maryland.
- (B) Government utilities shall be permitted in any district, it being the intention to exempt such facilities from the application of this chapter; except, that the plans of any overhead electric transmission line of 69 kilovolts or greater, of any cross country telephone trunk line, including microwave, transmission pipe line proposed to be created or installed in any district, shall be submitted to the Planning Commission in adequate time for its review and recommendation. A nongovernmental utility that is proposed either on a site area measuring 1,500 square feet or less, or that includes a structure that measures 500 square feet or less and is 10 feet in height, is also exempt from the application of this chapter.
- (C) A proposed public building or facility owned by, or located on property owned by, the [Board of County Commissioners] COUNTY will be submitted to the Frederick County Planning Commission (FCPC) for nonbinding review and comment. The FCPC will hold a public meeting on the proposed public building or facility, after nonbinding review and comment

by the [Division of Permitting and Development Review] COMMUNITY DEVELOPMENT DIVISION in accordance with §§ 1-19-3.300.1(D)(1) and 1-19-3.300.3 of this chapter.

(Ord. 77-1-78, § 40-49(D), 1-24-1977; Ord. 00-28-270, 9-7-2000; Ord. 08-26-502, 10-14-2008; Ord. 09-21-525, 6-4-2009; Ord. 09-22-526, passed 7-14-2009)

## **DIVISION 2. NONCONFORMING LOTS, STRUCTURES, AND USES**

## **■§ 1-19-4.200. GENERALLY.**

- (A) Within the zoning districts established by this chapter or amendments that may later be adopted there exist lots, structures, uses of land, and/or structures, which were lawful before January 24, 1977 or before this chapter was amended, but which would not conform to regulations and restrictions under the terms of this chapter or future amendments thereto, and which could not be built or used under existing regulations.
- (B) The purpose of nonconforming lot, structure, and use provisions are to allow such nonconformities to continue to exist subject to the regulations contained in this division while not increasing the nonconformity. It is not the policy of the county to pursue elimination of these nonconformities.

(Ord. 77-1-78, § 40-42, 1-24-1977; Ord. 08-26-502, 10-14-2008; Ord. 09-27-531, 11-3-2009)

## **№ § 1-19-4.210. NONCONFORMING LOTS.**

- (A) A nonconforming lot is a lot which was legally subdivided and recorded in the county land records prior to adoption, or amendment, of this chapter and which after adoption or amendment of this chapter does not comply with the dimensional requirements of this chapter.
- (B) In any district where permitted a single-family dwelling and customary accessory buildings may be erected in any nonconforming lot and in any commercial or industrial district a principal permitted use and customary accessory buildings may be erected on any nonconforming lot, provided all of the following conditions are met in both cases.
- (1) The lot is located in a district in which the proposed use is permitted.
- (2) This provision shall apply even though such lot fails to meet the requirements for street frontage, area, or width that are applicable in the district. The yard dimensions of the lot shall conform to the regulations for the district in which such lot is located.
- (3) If said lot lacks street frontage, it must be proven that said lot has an unrestricted right of access.
- (C) Any lot reduced in area or yard setback to a nonconforming lot by reason of a re-alignment or dedication of any existing federal, state or county highway or by reason of a condemnation proceeding is a nonconforming lot of record and any lawful structure on the lot before such reduction in lot size is a nonconforming structure and may continue. However, this provision does not apply to the creation of new streets, roads or courts in a proposed subdivision.

(D) A nonconforming lot due to lack of road frontage may be subdivided providing the new lot has road frontage that conforms with § <u>1-19-4.520</u> and the remainder has an unrestricted right of access and does not have less road frontage than before subdivision.

(Ord. 77-1-78, § 40-42(A), 1-24-1977; Ord. 77-10-77, 8-22-1977; Ord. 79-19-145, 8-7-1979; Ord. 80-31-183, 10-7-1980; Ord. 08-26-502, 10-14-2008)

## § 1-19-4.220. NONCONFORMING STRUCTURES.

- (A) A nonconforming structure is a structure lawfully existing January 24, 1977 or on the effective date of an amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot. A nonconforming structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
- (1) The conforming portion of a nonconforming structure may be expanded or modified provided that the expansion or modification does not increase the portion of the structure determined by the Zoning Administrator to be nonconforming.
- (2) The nonconforming portion of a nonconforming structure may be modified in accordance with the requirements of this chapter provided that the modification reduces the portion of the structure determined by the Zoning Administrator to be nonconforming.
- (3) Such structure once destroyed by any means will not be reconstructed unless:
- (a) It is in conformity with this chapter; or
- (b) The Board of Appeals grants a variance;
- (4) Such structure once moved, will thereafter conform to the regulations for the district to which it is moved.
- (5) This movement does not include minor shifting or settling of the structure from natural or accidental causes.
- (B) Under no circumstances shall the Board of Appeals grant a variance to a nonconforming structure for the portion of structure determined by the Zoning Administrator to be nonconforming.

(Ord. 77-1-78, § 40-42(B), 1-24-1977; Ord. 08-26-502, 10-14-2008; Ord. 09-27-531, 11-3-2009)

# **№** § 1-19-4.230. NONCONFORMING USES.

- (A) A nonconforming use is a use which legally exists on January 24, 1977 or at the time of amendment of this chapter but that does not comply with the regulations of the district in which it is located. Nonconforming uses are incompatible with permitted uses in the same district and will not be modified or enlarged, except with the approval of the Board of Appeals.
- (B) The Board of Appeals may grant an approval to change a nonconforming use to another nonconforming use where a specific finding is made that:
- (1) No structural alterations are made;

- (2) The proposed use is more appropriate to the district; and
- (3) A nonconforming use will not be changed to a use considered less appropriate to the district;
- (C) The Board of Appeals may grant an approval to expand a nonconforming use. Expansion is limited to the lot that exists on January 24, 1977. Additional acreage or dwelling units will not be added to expand a nonconforming use.
- (D) The Board of Appeals may impose conditions within the scope of this chapter on the granting of an approval within this section.
- (E) A nonconforming use which has ceased for one year or more shall be void and have no further status.
- (F) The casual, temporary or illegal use of land does not establish the existence of a nonconforming use.
- (G) Existing mobile home parks.
- (1) A mobile home park which existed on January 24, 1977 may continue in existence under the rules and regulations then in effect.
- (2) A mobile home located in an existing mobile home park on the effective date of this section may be replaced by another mobile home no larger than 840 square feet in size.
- (3) No increase in the number of units or parcel size of any existing mobile home park will be allowed except as provided in § 1-19-10.600.2, Mobile home parks.

(Ord. 77-1-78, § 40-42(C), 1-24-1977; Ord. 05-30-391, passed 11-15-2005; Ord. 08-26-502, 10-14-2008; Ord. 09-27-531, 11-3-2009)

#### **DIVISION 3. ACCESSORY STRUCTURES**

# **■**§ 1-19-4.300. DEFINITION.

Accessory structures include garages, tool sheds, storage buildings, barns, signs, or other similar structures. An accessory structure having any part of a wall in common with a dwelling is considered part of the main building. A mobile home is not an accessory structure, except as a tenant house on a farm.

(Ord. 77-1-78, § 40-47(A), 1-24-1977; Ord. 08-26-502, 10-14-2008; Ord. 09-21-525, 6-4-2009)

### **№** § 1-19-4.300.1. LOCATION.

- (A) No accessory building will be erected within the required front yard, except as provided in § 1-19-8.250.1. No accessory structure will be erected within 6 feet of any lot lines or within 6 feet of any building on the lot, except as provided in § 1-19-8.250.1.
- (B) No accessory structure, wind energy system, solar array or associated structure, will be erected within the required front yard setback, except as provided in § 1-19-8.250.1.

- (C) Accessory structures shall be located on the same parcel as the principal permitted use or structure.
- (D) Accessory structures on residential properties see also § <u>1-19-8.240</u>.

(Ord. 77-1-78, §40-47(B), 1-24-1977; Ord. 06-24-420, 6-20-2006; Ord. 08-26-502, 10-14-2008; Ord. 09-21-525, 6-4-2009; Ord. 12-08-603, 4-17-2012)

§ 1-19-4.300.2. [RESERVED.]

# DIVISION 4. TRANSITIONAL PROVISIONS FOR SUBDIVISION PLATS AND PERCOLATION.

# § 1-19-4.400. TRANSITIONAL PROVISIONS FOR SUBDIVISION PLATS AND PERCOLATION.

- (A) Any preliminary plat for subdivision which has been approved by the Planning Commission as of January 24, 1977, but which has not received final plat approval and been duly recorded among the plat records of the county shall be considered valid and be subject to the provisions of the zoning regulations in effect prior to January 24, 1977; provided that final plats covering all lots shall be filed by January 24, 1978, except those lots located in restricted soils which had duly filed percolation test application as of January 18, 1977. These subdivisions and lots are listed by the Health Department. Final plats for lots not affected by restricted soils shall be recorded by June 30, 1978.
- (B) Final plats covering all lots involving restricted soils and listed by the Health Department shall be filed by August 30, 1978. These final plats for all lots shall be recorded by December 16, 1978.
- (C) Any plat which receives final approval and has been duly recorded in accordance with the above after January 24, 1977 shall be subject to requirements for lots of record as contained in §§ 1-19-4.200 through 1-19-4.230 of this Code. Any preliminary plat not receiving final plat approval, and which is not duly recorded as specified above, shall be subject to the new zoning regulations.

(Ord. 77-1-78, 1-24-1977; Ord. 78-4-102, 1-17-1978; Ord. 08-26-502, 10-14-2008)

#### **DIVISION 5. GENERAL LOT REQUIREMENTS**

# **■§ 1-19-4.500. SEPARATE LOT REQUIREMENTS.**

Except as otherwise permitted by this chapter:

- (A) Only 1 structure used for dwelling purposes is permitted on a single lot;
- (B) In commercial or industrial districts, only 1 principal structure and customary accessory structures will be permitted on any single lot.

(Ord. 77-1-78, § 40-43(A), 1-24-1977; Ord. 08-26-502, 10-14-2008)

## **■§ 1-19-4.510. SUBDIVISION OF A LOT.**

Subdivision of existing lots is not permitted where the proposed subdivision would create any lots which do not comply with all requirements of this chapter.

(Ord. 77-1-78, § 40-43(B), 1-24-1977; Ord. 08-26-502, 10-14-2008)

## **■** § 1-19-4.520. LOT FRONTAGE REQUIREMENTS.

- (A) Every building or structure used in whole or part for dwelling purposes and hereafter erected or moved will be located on a lot abutting for at least 20 feet on a county or state road or street. However, panhandle lots created by subdivision plat which are located side-by-side and utilize a common driveway may abut for only 10 feet each on a county or state road. The 10 foot width of each panhandle may only be allowed for the length of 2 or more panhandles which are side-by-side. If a single panhandle is created, or that portion of a panhandle which is not adjacent to another panhandle, the 20 foot width shall be required.
- (B) In a townhouse, garden apartment development, cluster subdivision, MPDU project, Planned Unit Development, or a Mixed Use Development project with a residential component, the lots may face on a common open space, or private street, provided that the plan of such development is approved by the Planning Commission.
- (C) Every building, structure or use of land used in whole or in part for commercial or industrial purposes will be located on a lot abutting for at least 80 feet on a paved public road; provided, however, where a common entrance is used, the minimum frontage of each lot shall be 50 feet.

(Ord. 77-1-78, § 40-43(C), 1-24-1977; Ord. 82-19-263, 9-7-1982; Ord. 96-06-158, 3-12-1996; Ord. 02-26-322, 11-21-2002; Ord. 08-26-502, 10-14-2008; Ord. 10-26-561, 11-9-2010; Ord. 11-25-591, 10-27-2011)

# § 1-19-4.530. AREAS OF LOT WHICH DO NOT SATISFY LOT AREA REQUIREMENTS.

Those areas of a lot which lie in an established or proposed street right-of-way as indicated on the County Comprehensive Plan do not qualify as part of the required minimum lot area. The area within the "handle" of a panhandle lot does not qualify as part of the required minimum area.

(Ord. 77-1-78, § 40-43(D), 1-24-1977; Ord. 08-26-502, 10-14-2008; Ord. 11-06-572, 5-17-2011)

# § 1-19-4.540. MINIMUM LOT AREA WHEN INDIVIDUAL WATER AND SEWAGE FACILITIES ARE USED.

Any lot to be served by an individual water supply and individual sewage disposal system regardless of the zone in which it is located will have a minimum area of 40,000 square feet and a minimum lot width of 100 feet. The minimum lot areas will be increased to include any additional area deemed necessary by the County Health Department. Where a public or an acceptable community sanitary sewer system is accessible and used in conjunction with individual wells, the minimum lot area and frontage requirements shall be 15,000 square feet and 80 feet, respectively.

(Ord. 77-1-78, § 40-43(E), 1-24-1977; Ord. 82-11-255, 6-8-1982; Ord. 84-6-302, 4-3-1984; Ord. 08-26-502, 10-14-2008)

### **DIVISION 6. GENERAL YARD REQUIREMENTS**

## **■§ 1-19-4.600. MEASUREMENT OF FRONT YARD DEPTHS.**

The minimum front yard depths, as specified in this chapter, will be measured in the following manner.

- (A) The depths will be measured from the proposed or established right-of-way lines as determined by the Master Highway Plan, or as modified or supplemented by an officially adopted state or county road widening or location plan, an attested copy of which is filed with the County Planning [and Zoning] Commission, such plan will control.
- (B) Where a state or county road is proposed for improvement, but no such officially adopted plan is on file, the State Highway Administration or County Highways Department may be allowed not over 180 days from the date of the application for a zoning certificate and building permit within which to establish a proposed right-of-way plan.

(Ord. 77-1-78, § 40-44(A), 1-24-1977; Ord. 08-26-502, 10-14-2008)

## **■** § 1-19-4.610. VISIBILITY AT INTERSECTIONS.

On a corner lot in any district, nothing will be erected, placed, or planted in such a manner as to impede vision within 20 feet of the intersection of the road right-of-way lines. This rule will not apply to trees existing as of January 24, 1977.

(Ord. 77-1-78, § 40-44(B), 1-24-1977; Ord. 08-26-502, 10-14-2008)

## **■**§ 1-19-4.620. CORNER AND THROUGH LOTS.

- (A) In the case of corner lots, a full front yard of the required depth will be provided off both front lot lines, except as modified in §§ 1-19-6.120 through 1-19-6.170 of this Code.
- (B) In the case of through lots, front yards will be provided off all front lot lines, except as permitted by §§ 1-19-6.120 through 1-19-6.170 of this Code.

(Ord. 77-1-78, § 40-44(C), 1-24-1977; Ord. 08-26-502, 10-14-2008)

# **■**§ 1-19-4.630. COURT REQUIREMENTS.

When a court is provided, the minimum dimensions will be as follows.

- (A) *Minimum width*. For residential buildings other than a single-family dwelling, the minimum width shall be the sum of the heights of the opposite building walls, but not less than 40 feet. For nonresidential buildings, two-thirds the sum of opposite buildings walls, but not less than 30 feet.
- (B) Minimum depth. One and one-half times the width.

(Ord. 77-1-77, § 40-44(D), 1-24-1977; Ord. 08-26-502, 10-14-2008)

## ARTICLE V: ZONING MAP AND DISTRICTS

#### Section

#### Division 1. Official Zoning Map

1-19-5.100 Adopted

1-19-5.110 Location

<u>1-19-5.120</u> Interpretation

#### Division 2. Zoning Districts

1-19-5.200 Generally

1-19-5.210 Resource Conservation zoning district (RC)

1-19-5.220 Agricultural zoning district (A)

1-19-5.230 Residential zoning districts

<u>1-19-5.240</u> Commercial zoning districts

1-19-5.250 Industrial zoning districts

1-19-5.260 Euclidean Institutional zoning district (Ie)

Division 3. Use Table

1-19-5.300 Generally

1-19-5.310 Use table

#### **DIVISION 1. OFFICIAL ZONING MAP**

# **№** § 1-19-5.100. ADOPTED.

The zoning districts herein established are designated on the Official County Zoning Map, which together with all explanatory matter hereon, is adopted by reference and declared to be part of this chapter.

(Ord. 77-1-78, § 40-57(A), 1-24-1977; Ord. 08-26-502, 10-14-2008)

# **■**§ 1-19-5.110. LOCATION.

The Official County Zoning Map shall be located in the [Planning Department] DEPARTMENT OF PLANNING AND DEVELOPMENT REVIEW.

(Ord. 77-1-78, § 40-57(A), 1-24-1977; Ord. 08-26-502, 10-14-2008)

## **№ 1-19-5.120. INTERPRETATION.**

The location of zoning districts as determined from the Official Zoning Map is subject to the following rules of interpretation.

- (A) A district name or designation shown on the official map means that the regulations pertaining to that district extend throughout the whole area bounded by the district boundary lines.
- (B) Where the precise location of a district boundary line is determined by a designated number of feet as shown on the Official Zoning Map, that distance will control.
- (C) Where the precise location of a boundary line is shown as within or along a street or alley, the boundary line is the center line of such street or alley.
- (D) Where a boundary line is shown and its location is not fixed by any of the above rules, its precise location is determined by scaling from fixtures shown on the map.
- (E) Where physical features existing on the ground are at variance with those shown on the official map, or in other circumstances not covered above, the Board of Appeals shall interpret the district boundaries after receipt of recommendation from the Planning Commission.

(Ord. 77-1-78, § 40-57(B), 1-24-1977; Ord. 79-18-144, 8-7-1978; Ord. 08-26-502, 10-14-2008)

#### **DIVISION 2. ZONING DISTRICTS**

## **■**§ 1-19-5.200. GENERALLY.

The zoning districts in this division are hereby established for the county.

(Ord. 77-1-78, § 40-50, 1-24-1977; Ord. 08-26-502, 10-14-2008)

# **■** § 1-19-5.210. RESOURCE CONSERVATION ZONING DISTRICT (RC).

The purpose of the Resource Conservation Zoning District is to allow low intensity uses and activities which are compatible with the goal of resource conservation to be located within mountain and rural wooded areas. Areas within this district include mountain areas, rural woodlands, and cultural, scenic, and recreation resource areas. Environmentally sensitive areas within the resource conservation zone, including FEMA floodplain, steep slopes, wetlands and the habitats of threatened and endangered species, will be protected from development.

(Ord. 77-1-78, § 40-51, 1-24-1977; Ord. 95-02-126, 3-2-1995; Ord. 08-26-502, 10-14-2008; Ord. 09-21-525, 6-4-2009)

# **■§ 1-19-5.220. AGRICULTURAL ZONING DISTRICT (A).**

The purpose of the Agricultural District (A) is to preserve productive agricultural land and the character and quality of the rural environment and to prevent urbanization where roads and other public facilities are scaled to meet only rural needs.

(Ord. 77-1-78, § 40-52, 1-24-1977; Ord. 08-26-502, 10-14-2008)

## **■§ 1-19-5.230. RESIDENTIAL ZONING DISTRICTS.**

(A) (1) The purpose of the residential density districts is to promote healthful and convenient distribution of population with sufficient densities to maintain a high standard of physical design and community service. Residential density districts will conform to the County Comprehensive Plan and will be located within areas identified for residential development. The districts, as a group, are intended to provide for a variety of dwelling types and densities and to offer housing choices at various economic levels. It is further the intent to establish various densities of residential developments in order to efficiently and effectively provide for necessary public services and facilities. The following residential density districts and maximum densities are hereby established.

Residential District	Residential Density Class	Maximum Dwelling Units Per Acre
R-1	Low	1
R-3	Low	3
R-5	Medium	5
R-8	Medium	8
R-12	High	12
R-16	High	16

- (2) An exception to the maximum density is allowed under the MPDU program in accordance with 1-19-8.620.
- (B) The location of the districts will be consistent with the standards, criteria, and location as specified in the County Comprehensive Development Plan.

(Ord. 77-1-78, § 40-53, 1-24-1977; Ord. 02-26-322, 11-21-2002; Ord. 08-26-502, 10-14-2008)

#### **№ 1-19-5.240. COMMERCIAL ZONING DISTRICTS.**

- (A) The purpose of commercial districts is to provide sufficient and convenient locations throughout the county for commercial uses, serving the needs of local areas, the larger community, and regional users.
- (B) The Village Center District (VC) is intended to reinforce and enhance the historically mixed-use areas within rural communities and designated growth areas. The district provides for the location of a variety of limited commercial uses and a range of housing types while maintaining the compatibility of new development with existing development through design standards. A mix of uses is encouraged in the village center either within a single structure or as separate uses located throughout the district.

- (C) The General Commercial District (GC) is intended to provide general retail commercial and business services. The general commercial district will be located on roads with a minimum classification of collectors as designated by the County Comprehensive Plan.
- (D) The Mixed Use District (MX) is intended to provide for a mixture of residential, commercial, and employment uses served by publicly owned community water and sewer within growth areas for the purpose of redevelopment and in-fill where identified by a County Comprehensive Plan land use designation of Mixed Use.

(Ord. 77-1-78, § 40-55, 1-24-1977; Ord. 07-27-467, 6-19-2007; Ord. 08-26-502, 10-14-2008; Ord. 11-25-591, 10-27-2011; Ord. 11-28-594, 11-22-2011)

### **■** § 1-19-5.250. INDUSTRIAL ZONING DISTRICTS.

- (A) The purpose of the industrial districts is to provide for the development of varied industrial uses that would supply needed employment opportunities for the county. Industrial development has inherent characteristics that require special attention and protection. Due regard must be given to industrial needs for adequate site locations with concentration on terrain, availability of water and sewer systems, transportation, and compatibility with surrounding development.
- (B) The Limited Industrial District (LI) is intended to provide adequate area for development of industrial uses whose operations have a relatively minor nuisance value and provides a healthful operating environment secure from the encroachment of residential uses and protected from adverse effects of incompatible industries.
- (C) The General Industrial District (GI) is intended to provide areas for industries involving manufacturing or processing and for those industrial uses which cannot meet the performance criteria of the Limited Industrial District.
- (D) The Mineral Mining District (MM) is a floating zone established for the purpose of providing for the development of needed mineral resources in areas where such resources exist subject to adequate safeguard for the conservation of the environment.
- (E) The Office/Research Industrial District (ORI) is intended to provide for the development of office, research and limited manufacturing uses in high visibility locations along major highways. Development in this district shall be characterized by an absence of nuisances in a clean and aesthetically attractive setting. This district shall permit limited manufacturing, fabrication or assembly operations which would, by nature of the product, or magnitude of production, be compatible with research, professional or business offices. Commercial uses shall be limited to those which are primarily oriented towards servicing those businesses located within the Office/Research Industrial District.

(Ord. 77-1-78, § 40-56, 1-24-1977; Ord. 85-34-366, 8-8-1985; Ord. 08-26-502, 10-14-2008)

# **■§ 1-19-5.260. EUCLIDEAN INSTITUTIONAL ZONING DISTRICT (Ie).**

The Euclidean Institutional Zoning District is established to provide for college or university, public school within the Agricultural Zoning District, private school, private school in conjunction with a place of worship, or residential treatment center in conjunction with a private school within the Agricultural or Resource Conservation Zoning Districts, and a continuing care

retirement community (CCRC) within the Agricultural and R1 Zoning Districts, in existence or with final site development plan approval on June 15, 2009. (See also § 1-19-8.480.)

(Ord. 09-21-525, 6-4-2009; Ord. 10-18-533, 5-4-2010; Ord. 10-31-566, 12-21-2010)

#### **DIVISION 3. USE TABLE**

### **№ 1-19-5.300. GENERALLY.**

- (A) The official schedule of district regulations follows in §§  $\underline{1-19-5.310}$  and  $\underline{1-19-6.100}$  of this Code.
- (B) Additional supplementary district regulations are found in §§  $\underline{1-19-7.100}$  through  $\underline{1-19-7.620}$  of this Code.

(Ord. 77-1-78, § 40-61, 1-24-1977)

The specific district regulations are set out in § <u>1-19-5.300</u> of this Code and are in 2 tables.

- (C) Table I is § <u>1-19-5.310</u> of this Code and sets out the permitted uses in each zoning district and the type of required development review.
- (D) Table II is § <u>1-19-6.100</u> of this Code and sets out the minimum lot area, frontage, yards and the maximum building height allowed for permitted uses in each zoning district.
- (E) Unlisted uses.
- (1) A use not specifically listed in  $\S$  <u>1-19-5.310</u> Use Table is presumed to be prohibited, except when:
- (a) Permitted in any zoning district by state statute; or
- (b) The Zoning Administrator upon request provides a written determination that a proposed use is permitted due to its similarity to a particular use permitted within the zoning district.
- (F) A proposed public building or facility owned by, or located on property owned by, the [Board of County Commissioners] COUNTY will be submitted to the Frederick County Planning Commission (FCPC) for nonbinding review and comment. The FCPC will hold a public meeting on the proposed public building or facility, after nonbinding review and comment by the [Division of Permitting and Development Review] COMMUNITY DEVELOPMENT DIVISION in accordance with §§ 1-19-3.300.1(D)(1) and 1-19-3.300.3 of this chapter.

(Ord. 77-1-78, § 40-60, 1-24-1977; Ord. 08-26-502, 10-14-2008; Ord. 09-21-525, 6-4-2009; Ord. 09-22-526, 7-14-2009)

## **■§ 1-19-5.310. USE TABLE.**

(A) Permitted uses and required development review.

P Principal permitted use subject to design regulations

PS Principal permitted use subject to site development plan approval. See §§  $\underline{1-19-2.160}$ , and  $\underline{1-19-3.300}$  through  $\underline{1-19-3.300.4}$ 

E Principal permitted use as a special exception with site development plan approval. See §§  $\underline{1}$ - $\underline{19}$ -8.320 and following

T Permitted as temporary use as a special exception. See § <u>1-19-8.300</u>

X Permitted as temporary use only. See § <u>1-19-8.700</u>

SW Solid Waste Floating Zone

A blank indicates that the use is not permitted under any situation

	Zonir	ig Dist	ricts											
Uses	RC	A	R1	R3	R5	R8	R12	R16	VC	MX	GC	ORI	LI	GI
			N	atura	l Resc	ources	Uses		<u> </u>			-1		<u> </u>
Agricultural activities	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Limited agricultural activity			Е	Е	Е	Е	Е	Е						
Apiary	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Agricultural value added processing	P	P												
	***	***												
Agritourism enterprise	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Nursery retail	PS	PS									PS		PS	PS
Nursery wholesale	P	P									P		P	P
Farm winery	P	P												
	***	***												
Farm winery tasting room	PS ***	PS												
Farm brewery	P	*** P												
	***	***												
Farm brewery tasting room	PS ***	PS												
		***												
Limited roadside stand	P	P	PS	PS					PS	PS	PS			
Commercial roadside stand	PS	PS	PS	PS					PS	PS	PS			
Forestry	P	P	P	P	P	P	P	P			P		P	P
Sawmill	Е	Е												PS

Mineral extraction														PS
Mineral processing														PS
Spring water harvesting and storage	Е													
Intensive swine farm														
	Zonii	ng Disi	tricts											
Uses	RC	A	R1	R3	R5	R8	R12	R16	VC	MX	GC	ORI	LI	GI
		•		Re	sident	ial Use	?S							
Single-family detached	P	P	P	P	P	P	P	P	P	P				
Duplex dwelling			P	P	P	P	P	P	P	P				
Two-family dwelling		P	P	P	P	P	P	P	P	P				
Townhouse				PS *	PS	PS	PS	PS	PS	PS				
Multifamily dwellings						PS	PS	PS	PS	PS				
Multifamily group developments						PS	PS	PS	PS	PS				
Mobile homes	P	P												
Caretaker residence in conjunction with a permitted use	PS	PS							PS	PS	P		P	P
Accessory apartment ****	Е	Е	Е	Е	Е	Е	Е	Е	Е	Е				
				Tem	porary	Hous	ing					1		
Bed and breakfast	PS	PS	Е	Е	Е	Е	Е	Е	PS	PS	PS			
Motel, hotel									PS	PS	PS	PS	PS	
		-11	C	Comme	rcial U	Uses –	Retail			•	-11	•	•	
Antique, artisan and craft shops									PS	PS	PS			
Apparel store									PS	PS	PS			
Appliance sales and service									PS	PS	PS			
Auction house									PS		PS		PS	PS
Food stores									PS	PS	PS			
Boats, sales and service											PS		PS	PS
Book and magazine									PS	PS	PS			
Camera									PS	PS	PS			
Convenience stores									PS	PS	PS			

	Zonii	ıg Dis	tricts											
Uses	RC	A	R1	R3	R5	R8	R12	R16	VC	MX	GC	ORI	LI	GI
		(	Comme	ercial	Uses	– Rete	ail (Co	nt'd)						
Department store or variety store									PS	PS	PS			
Farm equipment sales or service ****		Е							PS		PS		PS	PS
Feed and grain mill		Е											PS	PS
Florist									PS	PS	PS			
Furniture repair									PS	PS	PS		PS	PS
Shopping center									PS		PS			
Gift/souvenir									PS	PS	PS			
Hardware/garden center									PS	PS	PS			
Hobby shop									PS	PS	PS			
Horse tack and saddlery shop									PS	PS	PS			
Household furnishing									PS	PS	PS			
Jewelry									PS	PS	PS			
Lumber yard											PS		PS	PS
Mobile home sales											PS		PS	PS
Music and record shops									PS	PS	PS			
Office equipment									PS	PS	PS			
Paint store									PS	PS	PS			
Pet store									PS	PS	PS			
Pet training/day care/grooming facility									PS	PS	PS			
Pharmacy									PS	PS	PS			
Radio and TV sales and service									PS	PS	PS			
Shoe store									PS	PS	PS			
Sporting goods									PS	PS	PS			
Stone monument sales									PS	PS	PS		PS	PS

	Zonin	ng Disi	tricts											
Uses	RC	A	R1	R3	R5	R8	R12	R16	VC	MX	GC	ORI	LI	GI
		(	Comme	ercial	Uses	– Reto	ail (Co	nt'd)				-1		
Tobacco store									PS	PS	PS			
Toy store									PS	PS	PS			
Liquor store									PS	PS	PS			
		Comn	nercia	l Busi	ness c	and Pe	ersonai	! Servic	es					
Advertising agency									PS	PS	PS			
Bank or savings and loan									PS	PS	PS	PS		
Broadcasting studio									PS	PS	PS	PS	PS	PS
Communication towers**	Е	Е									PS	PS	PS	PS
Barber and beauty shops									PS	PS	PS			
Bus depot											PS		PS	PS
Carpentry, electrical, plumbing, welding, printing, upholstering									PS	PS	PS		PS	PS
Contractors, fencing, pool and siding											PS		PS	PS
Commercial school or education program										PS	PS	PS	PS	
Dance or music studio									PS	PS	PS			
Dry cleaning and laundromat									PS	PS	PS			
Funeral home										PS	PS			
Limited landscape contractor		PS												
Landscape contractor		Е									PS		PS	PS
Medical clinic									PS	PS	PS	PS	PS	PS
Office business									PS	PS	PS	PS	PS	PS
Office professional					Е	Е	Е	Е	PS	PS	PS	PS		

	Zonii	ng Dis	tricts											
Uses	RC	A	R1	R3	R5	R8	R12	R16	VC	MX	GC	ORI	LI	GI
	Con	nmerc	ial Bus	siness	and F	Person	al Ser	vices (C	Cont'd,	)				
Pawn shop											PS			
Photography studio ****									PS	PS	PS		PS	
Restaurant									PS	PS	PS	PS	PS	
Country inn	Е	Е												
			Wh	olesal	ing ar	ıd Pro	ocessin	g						
Agricultural products processing	Е	Е									PS		PS	PS
Bottling plant											PS		PS	PS
Contractors, equipment and material storage yard														PS
Carpet or rug cleaning ****											PS		PS	PS
Contractors office and storage													PS	
Petroleum products storage ****													PS	PS
Laboratory research, experimental or testing											PS	PS	PS	PS
Industrial laundry and dry cleaning ****													PS	PS
Self-storage units											PS		PS	PS
Stone monument processing											PS		PS	PS
Wholesaling and/or warehouse											PS		PS	PS
Yard storage														PS
			Auton	ıobile	and I	Relate	d Servi	ices						
Part sales and installation									PS	PS	PS		PS	
Automobile filling and service station ****									PS	PS	PS		PS	PS
Carwash									PS		PS		PS	
Automobile repair or service shop ****									Е	Е	PS		PS	PS

	Zonir	ıg Disi	ricts											
Uses	RC	A	R1	R3	R5	R8	R12	R16	VC	MX	GC	ORI	LI	GI
		Auto	mobil	e and	Relat	ed Sei	rvices (	(Cont'o	<i>l)</i>		•	•		
Sales and service center ****											PS		PS	PS
Salvage yard ****														PS
School bus parking	Е	Е							Е		PS		PS	PS
Truck stop and filling station service facility ****														PS
Recreational vehicle storage facility		Е									PS		PS	PS
Motor freight terminal ****													PS	PS
			Aı	nimal	Care	and S	'ervice							
Animal hospital or veterinary clinic		Е							Е	PS	PS			
Kennel		Е							Е		Е			
Auction sales – animals		PS									PS		PS	PS
			Co	этте	rcial A	Amuse	ements							
Bowling alley									PS	PS	PS			
Carnival, circus		X	X						X	X	X		X	X
Race tracks											PS		PS	PS
Motorcycle hill climb														T
Health club, fitness center, vocational training facility									PS	PS	PS		PS	
Tennis club				Е	Е	Е	Е	Е		PS	PS			
Golf course ****			PS	PS	PS	PS	PS	PS						
Skating rink										PS	PS			
Swimming pool, commercial										PS	PS			
Theater, drive-in or outdoor stage											PS		PS	PS
Theater, indoor									PS	PS	PS		PS	

	Zoni	ng Dist	tricts											
Uses	RC	A	R1	R3	R5	R8	R12	R16	VC	MX	GC	ORI	LI	GI
		(	Comm	ercial	Amus	emen	ts (Cor	ıt'd)						
Zoo/botanical garden/arboretum											PS			
Museums/gallery									PS	PS	PS			
Night club, tavern, lounge											PS		PS	
Outdoor sports recreation facility		PS									PS		PS	PS
Rodeo		Е												
Indoor sports recreation facility										PS	PS		PS	
	-	•	•	Inc	lustrio	al Use	S	-	-	-	-	-	•	
Limited manufacturing and assembly use												PS	PS	PS
General manufacturing														PS
	•		Оре	n Spa	ce an	d Inst	itution	al	•	•		•		
Airports, public ****													PS	PS
Cemetery/memorial gardens		PS	PS											
Fairground											PS		PS	PS
Shooting range/club - trap, skeet, rifle, archery	Е	Е											PS	PS
Aircraft landing and storage areas, private		Е											Е	Е
Aircraft landing and storage areas, private – commercial use		Е											Е	Е
Tent campground	Е	Е												
Rustic retreat/camp/outdoor club	Е	Е												
	-	•		I	nstitut	ional							-	
Child care center/nursery school		Е	Е	Е	Е	Е	PS	PS	PS	PS	PS		Е	
Civic community center		Е	PS	PS	PS	PS	PS	PS	PS	PS	PS			
Civic service clubs		Е	P				PS	PS	PS	PS	PS			

	Zonii	ng Dist	ricts											
Uses	RC	A	R1	R3	R5	R8	R12	R16	VC	MX	GC	ORI	LI	GI
				Institu	ıtiona	l (Coi	ıt'd)							
Comprehensive physical rehabilitation facility								PS	PS	PS	PS	PS		
Group homes, small private	P	P	P	P	P	P	P	P	P	P				
Group home, large		PS	PS	PS	PS	PS	PS	PS	PS	PS				
Hospital								PS	PS	PS	PS			
Assisted living facility			PS	PS	PS	PS	PS	PS	PS	PS	PS			
Nursing home			PS	PS	PS	PS	PS	PS	PS	PS				
Place of worship	Е	PS	PS	E	PS	PS	PS	PS	PS	PS	PS		PS	
Private school		PS	PS	PS	PS	PS	PS	PS	PS	PS	T	T	Т	
Community fire and rescue service		PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS
		Gover	nment	al and	d Non	gover	nmenta	al Utilia	ties					
Arena or stadium											PS		PS	PS
College or university			PS	PS	PS	PS	PS	PS	PS	PS	PS			
Public school		PS	PS	PS	PS	PS	PS	PS	PS	PS	T	T	Т	
Nongovernmental utility	Е	Е	Е	E	E	Е	Е	E	Е		PS		PS	PS
Nongovernmental electric substation													Е	Е
			S	olid V	Vaste	Opera	ations							
Borrow pit operations		PS											PS	PS
Industrial waste landfill ****		Е												Е
Rubble landfill		SW												SW
Recycling pickup and distribution centers													PS	PS
RRF (Resource Recovery Facility - Separated Recyclables)		SW											SW	SW
RRF (Resource Recovery Facility - Nonseparated Materials)														SW

	Zonin	ig Disti	ricts											
Uses	RC	A	R1	R3	R5	R8	R12	R16	VC	MX	GC	ORI	LI	GI
		,	Solid	Waste	Oper	ation	s (Cont	t'd)						
Composting:														
Limited wood waste recycling facility		Е												Е
Unlimited wood waste recycling facility		SW												SW
Sludge amended yard waste		SW											SW	SW
Solid waste composting		SW											SW	SW
Sludge pit		Е												

<sup>\*</sup> Townhouses will be permitted only within MPDU developments; however, in no event shall the number of townhouses exceed 50% of the total number of units within the MPDU project.

- \*\*\* A zoning certificate is required to be obtained prior to the initiation of the processing operation and/or prior to any building construction related to farm winery, farm brewery, farm winery tasting room, or farm brewery tasting room.
- \*\*\*\* These uses are prohibited within wellhead protection areas; outside of WHPA the location and containment of hazardous substance for these uses must meet the requirements of § 1-6-50.
- \*\*\*\* A limited accessory apartment may be approved as an accessory use where the provisions in  $\S 1-19-8.212$  are met (see also  $\S 1-19-8.240$ , and  $\S 1-19-8.321$ )
- (B) Permitted uses and required development review for limited zoning districts.
- (1) *Euclidean Institutional Zoning District (Ie)*. The following uses are permitted within the Euclidean Institutional Zoning District:
- (a) College or university, public school, private school in conjunction with a place of worship, or residential treatment center in conjunction with a private school, a continuing care retirement community (CCRC), and agricultural activities as defined in § 1-19-11.100, subject to all other requirements of this chapter. The continued or further application of this zoning district to land uses not meeting these standards is not permitted. Caretaker residence in conjunction with a permitted use is specifically allowed as an accessory use. (See also § 1-19-8.480.)

<sup>\*\*</sup> Communication towers not permitted in residential districts, PUD, or MXD districts with a residential component

(Ord. 77-1-78, §40-61A, 1-24-1977; Ord. 79-5-131, 3-27-1979; Ord. 79-19-145, 8-7-1979; Ord. 80-24-176, 8-26-1980; Ord. 80-25-177, 8-26-1980; Ord. 80-31-183, 10-7-1980; Ord. 81-2-192, 1-27-1981; Ord. 81-29-219, 9-29-1981; Ord. 82-19-263, 9-7-1982; Ord. 83-15-282, 6-7-1983; Ord. 83-23-290, 10-11-1983; Ord. 83-29-296, 12-20-1983; Ord. 84-5-301, 4-3-1984; Ord. 84-34-331, 12-24-1984; Ord. 85-6-338, 1-8-1985; Ord. 85-34-366, 8-8-1985; Ord. 85-45-377, 12-3-1985; Ord. 86-5-382, 4-22-1986; Ord. 86-16-393, 5-13-1986; Ord. 86-37-414, 8-26-1986; Ord. 86-49-426, 9-23-86; Ord. 86-53-130, 10-28-1986; Ord. 88-12-489, 5-3-1988; Ord. 89-1-532, 1-3-1989; Ord. 89-14-545, 3-7-1989; Ord. 89-51-582, 8-15-1989; Ord. 90-03-601, 2-6-1990; Ord. 90-30-628, 6-19-1990; Ord. 90-44-642, 11-20-1990; Ord. 90-46-644, 11-20-1990; Ord. 91-02-002, 3-22-1991; Ord. 91-13-013, 6-4-1991; Ord. 91-32-032, 11-19-1991; Ord. 92-22-057, 10-06-1992; Ord. 92-23-058, 10-6-1992; Ord. 93-19-083, 9-13-1993; Ord. 93-28-092, 11-9-1993; Ord. 95-02-126, 3-2-1995; Ord. 95-28-152, 12-5-1995; Ord. 96-26-178, 12-17-1996; Ord. 97-17-195, 12-2-1997; Ord. 98-08-210, 4-21-1998; Ord. 99-02-229, 3-16-1999; Ord. 99-06-233, 5-18-1999; Ord. 99-14-241, 11-23-1999; Ord. 00-04-246, 4-4-2000; Ord. 00-28-270, 9-7-2000; Ord. 01-03-277, 3-6-2001; Ord. 03-09-332, 6-3-2003; Ord. 05-25-386, 9-27-2005; Ord. 05-29-390, 10-25-2005; Ord. 06-42-438, 11-30-2006; Ord. 07-16-456, 5-15-2007; Ord. 07-27-467, 6-19-2007; Ord. 07-31-471, 10-15-2007; Ord. 08-07-483, 4-10-2008; Ord. 08-26-502, 10-14-2008; Ord. 09-21-525, 6-4-2009; Ord. 09-22-526, 7-14-2009; Ord. 10-04-539, 3-11-2010; Ord. 10-18-533, 5-4-2010; Ord. 10-20-555, 8-24-2010; Ord. 10-26-561, 11-9-2010; Ord. 10-31-566, 12-21-2010; Ord. 11-06-572, 5-17-2011; Ord. 11-25-591, 10-27-2011; Ord. 11-28-594, 11-22-2011; Ord. 12-08-603, 4-17-2012; Ord. 12-23-618, 9-6-2012; Ord. 13-25-653, 10-31-2013)

### ARTICLE VI: DISTRICT REGULATIONS

#### Section

### Division 1. Design Requirements and Modifications

1-19-6.100 Design requirements for specific districts

1-19-6.110 Design modifications

1-19-6.120 Generally

1-19-6.130 Front yards

1-19-6.140 Side and rear yard modifications

<u>1-19-6.150</u> Projection of architectural features

1-19-6.160 Height modification

1-19-6.170 Historic structural lot sizes

#### Division 2. Parking and Loading

1-19-6.200 Generally

<u>1-19-6.210</u> Loading space requirements and dimensions

1-19-6.220 Parking space requirements and dimensions

<u>1-19-6.230</u> Joint use parking

<u>1-19-6.240</u> Shared parking

#### Division 3. Signs

1-19-6.300 Erection and maintenance

<u>1-19-6.310</u> General regulations

1-19-6.320 Signs permitted and regulated in the zoning district

1-19-6.330 Temporary business signs

1-19-6.340 Electronic message signs

#### Division 4. Landscaping and Screening

<u>1-19-6.400</u> Landscaping and screening

#### Division 5. Lighting

1-19-6.500 Lighting

#### **DIVISION 1. DESIGN REQUIREMENTS AND MODIFICATIONS**

## **■§ 1-19-6.100. DESIGN REQUIREMENTS FOR SPECIFIC DISTRICTS.**

Note 1. Minimum lot areas measured in acres and square feet; minimum lot width, yard areas and height measured in feet.

Note 2. The minimum lot area and yard requirements do not apply to agricultural activity involving no structures.

Note 3. Design requirements for uses permitted by special exception are established in §§ <u>1-19-8.320</u>*et seq*.

Note 4. Lot area, width and yard measurements may be modified in accordance with  $\S$  <u>1-19-8.620.6</u> (to residential zones - R3, R5, R8, R12, R16, VC, and in accordance with  $\S$  <u>1-19-7.520</u> for the MX District).

Use Classification	Minimum Lot Area	Minimum Lot Area per Unit	Lot Width	Front Yard	Side Yard	Rear Yard	Height
Resource Conservatio	n District RC						
Natural resources	10 acres	-	300	50	50	50	30'
Residential*							
Single family	10 acres	10 acres	300	50	50	50	30'
Mobile home	10 acres	10 acres	300	50	50	50	30'

Animal care and service	10	0 acres		-		300	)	50		50	50	30'
Open space uses	10	0 acres		-		300	O	50		50	50	30'
Institutional	10	0 acres		-		300	O	50		50	50	30'
Governmental and public utility	10	0 acres		-		300	)	50		50	50	30'
Nongovernmental utility	10	0 acres		-		300	0	50		50	50	30'
Agricultural District A				•				•		•		
Natural resources	5	acres		-		300	O	40		50	50	30'
Residential	S	ee § <u>1-19-7.</u>	<u>300</u>			100	O	40		10	30	30'
Single family		ee § <u>1-19-7.</u>	<u>300</u>	I		100	0	40		10	30	30'
Mobile homes	2	acres		1 acre	;	150	O	40		15	30	30'
Two family dwelling												
Animal care and services	5	acres		-		300	O	40		50	50	30'
Open space uses	5	acres		-		300	O	40		50	50	30'
Tent campground	10	0 acres		-		300	C	40		50	50	30'
Institutional	4	0,000		-		200	O	40		50	50	30'
Governmental and public utility	40	0,000		-		200	0	40		50	50	30'
Nongovernmental utility	40	0,000		-		200	O	50		50	50	30'
Commercial amusements	5	acres		-		200	O	40		50	50	30'
Residential One Distri	ct	R1		•				•		•		"
Natural resources	5	acres		-		300	C	40		50	50	30'
Residential												
Single family	4	0,000		40,00	0	100	0	40		10	30	30'
Use Classification		Minimum Lot Area	Minir Lot A per U	rea	Lot Widt	h	Fron Yard		Sic Ya	de ard	Rear Yard	Height

Residential One Distri	ct R1 (Cont'd	<i>)</i>					
Duplex dwelling	1 acre	1 acre	100	40	10	30	30'
Two family dwelling	2 acre	1 acre	150	40	15	30	30'
Commercial amusement	5 acres	-	200	40	50	50	30'
Open space	No minimum	-	200	40	50	50	30'
Institutional	40,000	-	200	40	50	50	30'
Governmental and public utility	40,000	-	200	40	50	50	30'
Nongovernmental utility	40,000	-	200	50	50	50	30'
Residential Three Distr	rict R3		•	•	•	•	•
Natural resources	5 acres	-	300	40	50	50	30'
Residential							
Single family	12,000	12,000	80	30	10	30	30'
Duplex dwelling	12,000	12,000	80	30	10	30	30'
Two family	24,000	12,000	100	30	10	30	30'
Commercial amusement	5 acres	-	300	40	50	50	30'
Open space uses	No minimum	-	200	40	50	50	30'
Institutional	12,000	-	200	40	50	50	30'
Governmental and public utility	12,000	-	200	40	50	50	30'
Nongovernmental utility	12,000	-	200	50	50	50	30'
Residential Five Distric	et R5			•	•		
Natural resources	5 acres	-	300	40	50	50	30'
Residential							
Single family	8,000	8,000	70	30	8	30	30'
Duplex dwelling	8,000	8,000	70	30	8	30	30'
Two family dwelling	16,000	8,000	80	30	8	30	30'

Townhouse dwelling	See §§ <u>1-1</u>	9 <u>-8.470</u> throu	ıgh <u>1-19-</u>	8.470.7			
Use Classification	Minimum Lot Area	Minimum Lot Area per Unit	Lot Width	Front Yard	Side Yard	Rear Yard	Height
Residential Five Distri	ct R5 (Cont'a	<i>l</i> )					
Commercial amusement	5 acres	-	300	40	50	50	30'
Open space uses	No minimum	-	200	40	50	50	30'
Institutional	8,000	-	200	40	50	50	30'
Governmental and public utility	8,000	-	200	40	50	50	30'
Nongovernmental utility	8,000	-	200	50	50	50	30'
Residential Eight Distr	ict R8		•	•	•		•
Natural resources	5 acres	-	300	40	50	50	30'
Residential							
Single family	6,000	6,000	65	25	8	30	30'
Duplex dwelling	6,000	6,000	65	25	8	30	30'
Two family dwelling	12,000	6,000	100	25	10	30	30'
Townhouse dwelling	See §§ <u>1-1</u>	9- <u>8.470</u> throu	ıgh <u>1-19-</u>	8.470.7			
Multifamily dwelling	None	5,000	150	40	30	50	40'
Multifamily group	None	5,000	150	40	30	50	40'
Temporary housing	12,000	-	80	30	10	25	30'
Commercial amusement	5 acres	-	300	40	50	50	30'
Open space uses	No minimum	-	200	40	50	50	30'
Institutional	6,000	-	200	40	50	50	30'
Governmental and public utility	6,000	-	200	40	50	50	30'
Nongovernmental utility	6,000	-	200	50	50	50	30'

Residential Twelve Dis	trict R12						
Natural resources	5 acres	-	300	40	50	50	30'
Residential							
Single family	6,000	6,000	65	25	8	30	30'
Use Classification	Minimum Lot Area	Minimum Lot Area per Unit	Lot Width	Front Yard	Side Yard	Rear Yard	Height
Residential Twelve Dis	trict R12 (Co	nt'd)					
Duplex dwelling	6,000	6,000	65	25	8	30	30'
Two family	10,000	5,000	100	25	8	30	30'
Townhouse	See §§ <u>1-19</u>	9- <u>8.470</u> throu	ıgh <u>1-19-</u>	8.470.7	•		•
Multifamily dwelling	None	3,600	150	40	*	*	100'
Multifamily group	None	3,600	150	40	*	*	100'
Commercial amusement	5 acres	-	300	40	50	50	30'
Open space uses	None	-	200	40	50	50	30'
Institutional	6,000	-	200	40	50	50	30'
Governmental and public utility	6,000	-	200	40	50	50	30'
Nongovernmental utility	6,000	-	200	50	50	50	30'
Residential Sixteen Dis	strict R16	•		•	•		•
Natural resources	5 acres	-	300	40	50	50	30'
Residential							
Single family	6,000	6,000	60	25	8	30	30'
Duplex family	6,000	6,000	60	25	8	30	30'
Two family dwelling	10,000	5,000	75	25	8	30	30'
Townhouse dwelling	See §§ <u>1-19</u>	9-8.470 throu	ıgh <u>1-19-</u>	8.470.7	•	•	
Multifamily dwelling	None	2,700	100	40	*	*	100'
Multifamily group	None	2,700	100	40	*	*	100'
Commercial amusement	5 acres	-	300	40	50	50	30'

Open space uses	No minimum	-	200	40	50	50	30'
Institutional	6,000	-	200	40	50	50	30'
Governmental and public utility	6,000	-	200	40	50	50	30'
Nongovernmental utility	6,000	-	200	50	50	50	30'
Use Classification	Minimum Lot Area	Minimum Lot Area per Unit	Lot Width	Front Yard	Side Yard	Rear Yard	Height
Village Center District \	VC						
Natural resources	5 acres	-	300	40	50	50	30'
Residential							
Single family	None	$6,000^3$	65	***	***	***	30'
Duplex dwelling	None	$6,000^3$	65	***	***	***	30'
Two family	None	$5,000^3$	75	***	***	***	30'
Townhouse dwelling	See §§ <u>1-19</u>	9- <u>8.470</u> throu	ıgh <u>1-19-</u>	8.470.7			30'***
Multifamily dwelling	None	$3,600^3$	65	***	15****	50	30'***
Multifamily group	None	$3,600^3$	150	***	30****	50	30'***
Temporary housing							
Hotel/motel	20,000	500 <sup>3</sup>	100	***	15****	40	30'***
Commercial uses:							
New structures	None	-	None	***	10****	40	30'***
In existing structures	None	-	None	As Exists <sup>1</sup>	***		
Shopping centers	See § <u>1-19-</u>	- <u>8.460</u> ***					
Automobile and related services	None	-	65	***	10****	40	30'***
Animal care and services	None	-	65	***	15****	40	30'***
Commercial amusements	None	-	65	***	10****	40	30'***
Open space uses	No minimum	-	-	-	-	-	-

Institutional	None	-	200	40	50	50	30'
Governmental and public utility	None	-	200	40	50	50	30'
Nongovernmental utility	None	-	200	50	50	50	30'
Use Classification	Minimum Lot Area	Minimum Lot Area per Unit	Lot Width	Front Yard	Side Yard	Rear Yard	Height
General Commercial Di	istrict GC	_					
Natural resources	5 acres	-	300	40	50	50	30'
Temporary housing							
Hotel or motel	20,000	500	100	25	15	40	60'
Commercial use	12,000	-	100	25	8	25	60'
Shopping centers	See § <u>1-19-</u>	-8.460		25	*	*	60'
Wholesaling and processing	20,000	-	100	25	*	25	60'
Automobile and related service	12,000	-	100	25	8	25	60'
Animal care and services	12,000	-	100	25	8	25	60'
Commercial amusements	12,000	-	100	25	8	25	60'
Open space uses	No minimum	-	-	-	-	-	-
Institutional	12,000	-	200	40	40	40	30'
Governmental and public utility	12,000	-	200	40	40	40	30'
Nongovernmental utility	12,000	-	200	40	40	40	30'
Self-storage units	20,000	-	100	25	10	25	60'
					****	****	****
Use Classification	Minimum Lot Area	Minimum Lot Area per Unit	Lot Width	Front Yard	Side Yard	Rear Yard	Height

Mixed Use MX							
Natural resources	5 acres	-	100	20	8	20	30'
Residential							
Single family	6,000	6,000	60	20	8	30	40'
Duplex dwelling	6,000	6,000	60	20	8	30	40'
Two family	10,000	5,000	75	20	8	30	40'
Townhouse	See §§ <u>1-19</u>	9-8.470 thro	ugh <u>1-19</u> -	8.470.7			
Multifamily dwelling	None	2,700	100	20	*	*	60'
Multifamily group	None	2,700	100	20	*	*	60'
Temporary housing							
Hotel or motel	20,000	500	100	20	15	35	60'
Commercial uses	12,000	-	75	20	8	35	60'
Automobile and related services	12,000	-	75	20	8	35	60'
Open space uses	No minimum	-	-	-	-	-	-
Animal care and service	12,000	-	75	20	8	30	60'
Institutional	12,000	-	100	40	20	30	60'
Limited Industrial Distri	ct LI	•		•	•	*	
Natural resources	5 acres	-	300	40	50	50	30'
Industrial	20,000	-	100	25	*	20	60'
Automobile services	20,000	-	100	25	*	20	60'
Wholesaling/processing	20,000	-	100	25	**	20	60'
Open space uses	No minimum	-	-	-	-	-	-
Governmental and public utility	20,000	-	200	40	40	40	30'
Nongovernmental utility, nongovernmental electric substation	20,000	-	200	50	50	50	30'

Self-storage units	20,000	-	100	25	10	25	60'
					****	****	****
General Industrial Distri	ct GI		•	•	•		
All permitted uses	1 acre	_	150	25	15	40	60'
Open space uses	No minimum	-	-	-	-	-	-
Governmental and public utility	1 acre	-	200	40	40	40	30'
Nongovernmental utility, nongovernmental electric substation	1 acre	-	200	50	50	50	30'
Self-storage units	20,000	-	100	25	10	25	60'
Office/Research Industr	ial District C	RI		•	•		•
Temporary housing							
Hotel or motel	40,000	500	100	$50^{2}$	25 <sup>2</sup>	$40^{2}$	60'
Other commercial uses	40,000	-	100	$50^{2}$	25 <sup>2</sup>	$40^{2}$	60'
Use Classification	Minimum Lot Area	Minimum Lot Area per Unit	Lot Width	Front Yard	Side Yard	Rear Yard	Height
Office/Research Indust	rial District	ORI (Cont'd	)				
Industrial and office	80,000	-	200	$50^{2}$	25 <sup>2</sup>	$40^{2}$	60'
Governmental and public utility	40,000	-	200	50 <sup>2</sup>	25 <sup>2</sup>	40 <sup>2</sup>	60'
Open space uses	None	-	-	-	-	-	-

<sup>\*</sup> Equal to the height of structure.

<sup>\*\*</sup> Minimum 10' green area no parking within area

<sup>\*\*\*</sup> For development within the Village Center Zoning District see also §§  $\underline{1-19-7.500}(B)(2)$  and (3)

<sup>\*\*\*\*</sup> Or as determined under §§ 1-19-7.500(B)(3), whichever is greater

<sup>\*\*\*\*</sup> Except as provided in  $\frac{1-19-8.450}{(B)(2)}$  and  $\frac{1-19-8.450}{(D)(1)}$ .

- 1 Any proposed addition would have to meet setbacks required for new structures. Parking requirements of §§ <u>1-19-6.200</u> through <u>1-19-6.240</u>.
- 2 As shown or equal to height of structure, whichever is greater.
- 3 Development within the VC zoning district may not exceed the density as specified within §§ 1-19-7.500(B)(1).

(Ord. 77-1-78, § 40-61.B, 1-24-1977; Ord. 82-19-263, 9-7-1982; Ord. 85-34-366, 8-8-1985; Ord. 86-53-430, 10-28-1986; Ord. 93-23-087, 10-19-1983; Ord. 95-02-126, 3-2-1995; Ord. 02-26-322, 11-21-2002; Ord. 03-09-332, 6-3-2003; Ord. 07-27-467, 6-19-2007; Ord. 07-31-471, 10-15-2007; Ord. 08-05-481, 2-5-2008; Ord. 08-19-495, 5-20-2008; Ord. 08-26-502, 10-14-2008; Ord. 09-21-525, 6-4-2009; Ord. 11-25-591, 10-27-2011; Ord. 11-28-594, 11-22-2011; Ord. 12-23-618, 9-6-2012)

## **■§ 1-19-6.110. DESIGN MODIFICATIONS.**

## **■§ 1-19-6.120. GENERALLY.**

The regulations specified in this chapter are subject to the following modifications and interpretation.

(Ord. 77-1-78, § 40-80, 1-24-1977; Ord. 08-26-502, 10-14-2008)

## **■**§ 1-19-6.130. FRONT YARDS.

- (A) Front yard modifications for existing building alignment. When appropriate, the Zoning Administrator may increase or decrease the depth of the required front yard for any principal residential structure so that such front yard will approximate the average depth of the existing front yards of the existing dwellings on adjoining lots on each side, or if there be no such adjoining dwellings, shall approximate the average depth of the front yards of the nearest dwellings on the same side of the street within 200 feet.
- (B) Front yard modifications through lots. In the case of through lots, front yards shall be provided on all frontages, except where one of the front yards of a through lot abuts an expressway or freeway as determined by the Master Highway Plan then the requirement for such front yard shall be 20 feet.
- (C) Front yard modifications for corner lots. In the case of corner lots with more than 2 frontages, the Zoning Administrator shall determine the front yard requirements subject to § 1-19-4.610 of this Code and the following additional limitations.
- (1) At least 2 front yards shall be provided having the full depth required generally in the district.
- (2) No other front yard on such lot shall have less than half the full depth required generally in the district.

(Ord. 77-1-78, § 40-81, 1-24-1977; Ord. 07-07-447, 3-20-2007; Ord. 08-26-502, 10-14-2008)

## **凤** § 1-19-6.140. SIDE AND REAR YARD MODIFICATIONS.

- (A) Side yard and rear yard width may be varied where the wall of a building is not parallel with the side or rear lot line or is broken or otherwise irregular. In such case the average width of the yard will be no less than the generally required minimum width; provided, that such yard will not be narrower at any point than one-half the normally required setback.
- (B) When the side lines of a lot coverage so as to form a rear lot line of less than 10 feet or a point in the rear, the rear lot line is that line parallel to the front lot line and measuring 10 feet in length between the 2 side lot lines. The depth of the rear yard is measured from such 10 foot line to the nearest part of the principal building.
- (C) In the case of corner lots, there shall be no required rear yard.

(Ord. 77-1-78, § 40-82, 1-24-1977; Ord. 08-26-502, 10-14-2008)

### **■§ 1-19-6.150. PROJECTION OF ARCHITECTURAL FEATURES.**

- (A) Bay windows, chimneys, stoops, balconies, eaves and leaders will not project more than 4 feet into any required yard.
- (B) Open/unenclosed porches or uncovered decks will not project more than 4 feet into any front or side yard and may project into the rear yard up to one-half the distance of the rear yard requirement. Decks may not be constructed in such a manner so that one deck is directly above another deck.
- (C) Fences are exempt from yard requirements.

(Ord. 77-1-78, § 40-83, 1-24-1977; Ord. 85-44-376, 12-3-1985; Ord. 08-26-502, 10-14-2008)

# **凤**§ 1-19-6.160. HEIGHT MODIFICATION.

The building height limitations of this chapter do not apply to:

- (A) Penthouses or roof structures for housing stairways, tanks, elevators, ventilating fans or similar equipment required to operate and maintain the building, fire or parapet walls, steeples, flag poles, and silos;
- (B) Smoke stacks, masts, water tanks, monuments. Bulkheads, monitors and scenery lofts, fire towers, hose towers, cooling towers, grain elevators, gas holders or other structures where the manufacturing process requires a greater height, radio or television towers and essential services. Any such structure which exceeds the maximum height limit otherwise permitted in the district, the distance from its front, side and rear lot lines shall be no less than the maximum vertical height of such structures;
- (C) Churches, schools, institutional buildings, public utility buildings and structures provided that for each 3 feet by which the height of such structure exceeds the maximum height generally permitted for structures in the district, the required side and rear yards measurements will be increased by an additional foot.

(Ord. 77-1-78, § 40-84, 1-24-1977; Ord. 08-26-502, 10-14-2008)

## **■§ 1-19-6.170. HISTORIC STRUCTURAL LOT SIZES.**

Sites to be used for the preservation of historic structures may be less than the minimum lot size for the district, provided:

- (A) The site is eligible for or has been placed on the National Register of Historic Places;
- (B) It is owned and operated by a private not- for-profit corporation;
- (C) The site will not be used for human habitation nor generate sewage effluent unless said site is served by community sewerage facilities or contains at least 40,000 square feet and said facilities meet the approval of the Health Department;
- (D) The owner of the site grant an easement in perpetuity to the county or the Maryland Historic Trust, or other governmental body empowered to accept such easement restricting further development of the site for nonhistoric preservation purposes.

(Ord. 77-1-78, § 40-85, 1-24-1978; Ord. 08-26-502, 10-14-2008)

#### **DIVISION 2. PARKING AND LOADING**

## **■§ 1-19-6.200. GENERALLY.**

- (A) No structure will be erected, substantially altered, or its use changed unless permanent off street parking and loading spaces have been provided and maintained in accordance with the provisions of this chapter, unless amendments or modifications are authorized under § 1-19-6.210(D).
- (B) Except as permitted by § <u>1-19-6.210(D)</u>, parking areas and loading spaces shall not be closer to the right-of-way line than one-half the normally required setback for principal structures.
- (C) Parking and loading requirements per area will be determined by the net floor area, meaning that which is utilized for the main use of the building(s). Net floor area shall be determined by subtracting incidental service, storage and mechanical areas from the gross floor area.
- (D) Parking and loading requirements per seat will be determined by the number of the individual seats. For purposes of bench type seating, 20 inches will be equivalent of 1 seat.
- (E) Parking requirements may be satisfied through provision of surface parking areas, parking structures, or a combination thereof.
- (F) Parking areas shall be maintained so as to prevent the accumulation of litter and debris.

(Ord. 77-1-78, § 40-45(A), 1-24-1977; Ord. 97-06-184, 5-6-1997; Ord. 07-11-451, 4-17-2007; Ord. 08-26-502, 10-14-2008; Ord. 10-01-536, 1-19-2010; Ord. 10-26-561, 11-9-2010)

# **■§ 1-19-6.210. LOADING SPACE REQUIREMENTS AND DIMENSIONS.**

(A) *Dimensions, clearances and signage*. There shall be 2 sizes of off-street loading spaces designated: "small" and "large". Large loading spaces are designed to accommodate uses that require high-volume delivery of goods in a tractor-trailer. Each loading space shall be exclusive

of driveways, aisles and other circulation areas. All loading spaces shall have signs and markings indicating that the space is reserved for loading or unloading.

- (1) A small loading space shall have minimum dimensions of not less than:
- (a) Nine feet in width;
- (b) Twenty feet in length; and
- (c) Ten feet in height clearance.
- (2) A large loading space shall have minimum dimensions of not less than:
- (a) Twelve feet in width;
- (b) Fifty feet in length; and
- (c) Fifteen feet in height clearance.
- (B) *Requirements*. Off-street loading space(s) will be provided and maintained on the same lot as the principal use(s) for delivery of goods in accordance with the table below:

Use Classification	Total Building Net Floor Area (in square feet)	Minimum Loading Spaces Required
Place of worship, bank, childcare center/nursery school, private school, recreation & community building, multiple-user	0 - 1,000 sq.ft.	If approved by staff, no separate loading space is required. However, a temporary loading zone may be required to be delineated on the site plan and which may be located within a parking area.
retail, all office, and miscellaneous commercial uses not listed herein	Over 1,000 - 5,000 sq.ft.	1 small (see requirements of § <u>1-19-6.210(C))</u>
	Over 5,000 sq.ft.	1 large or 2 small (see requirements of § 1-19-6.210(C)) + 1 additional large for each additional 15,000 sq.ft. or part thereof over 20,000 sq.ft.
Single-user retail, all	0 - 5,000 sq.ft.	1 large
industrial and all wholesale	Over 5,000 sq.ft.	1 large + 1 additional large for each additional 10,000 sq.ft. or part thereof over 5,000 sq.ft.

(C) If an applicant for (1) multiple-user retail; (2) office; or (3) miscellaneous commercial uses not listed in the table in subsection (B), does not intend to provide any large loading spaces, the applicant must file a request and demonstrate to the satisfaction of the Planning Commission that no high-volume delivery of goods in a tractor-trailer is required for the proposed use.

- (D) *Modification*. An applicant may request that the Planning Commission approve a modification to the requirements of § 1-19-6.200(B), § 1-19-6.210(A) or that the Zoning Administrator or Planning Commission authorized representative approve a modification to the requirements of § 1-19-6.210(B) of this section. The applicant's request shall include written justification describing why fewer or smaller loading spaces are adequate for the proposed use.
- (E) *Refuse and recycling*. Exterior refuse and recycling dumpsters shall be provided in accordance with the requirements of the Division of Utilities and Solid Waste Management.

(Ord. 77-1-78, § 40-45(B), 1-24-1977; Ord. 07-11-451, 4-17-2007; Ord. 08-26-502, 10-14-2008; Ord. 10-01-536, 1-19-2010)

## **■§ 1-19-6.220. PARKING SPACE REQUIREMENTS AND DIMENSIONS.**

#### (A) Generally.

- (1) For the purpose of this chapter, the parking space requirements in the following table will apply. Parking shall be limited to the number of spaces required based on an evaluation of each proposed use, hours of operation, and joint or shared parking agreements. An increase or reduction in the number of required parking spaces may be granted by the Planning Commission where the applicant or Planning Commission authorized representative can demonstrate need based on characteristics of the proposed use, hourly parking demand studies published by the Institute of Transportation Engineers (ITE), or other documentation as approved by the Planning Commission.
- (2) When an increase in the number of required parking spaces is granted or for the purposes of overflow parking, the Planning Commission may require the spaces to be constructed of pervious materials.
- (3) When a reduction in the number of required parking spaces is granted, the Planning Commission will determine the extent that an accessible graded and seeded area shall be reserved for future parking.
- (4) For uses not listed in the following table, parking requirements shall be determined by the Planning Commission or their authorized representatives. The requirements shall be based upon similarity to an existing use listed within the table below, characteristics of the proposed use, or hourly parking demand studies published by the Institute of Transportation Engineers (ITE).

Type of Use	Parking Spaces Required			
Residential				
Single family, mobile home, duplex or two family dwelling	2 for each dwelling unit			
Multi-family dwelling, townhouse, multi-family group development	1 space per unit, plus one-half space for each bedroom in the dwelling unit			
Temporary Housing				
Bed and breakfast	2 spaces per the primary dwelling, plus 1 space for			

	each guestroom (see § <u>1-19-8.410</u> and § <u>1-19-8.326</u> )				
Hotel, motel	1 per each sleeping room, plus 1 for each 2 employees				
Commercial Uses - Retail					
Retail store	1 for each 250 square feet of floor area excluding preparation and/or storage areas				
Farm equipment sales or service	2 spaces per service bay, plus 1.5 spaces per each employee				
Feed and grain mill	1 space per each 300 square feet of sales floor area, plus 1 space per employee				
Shopping center less than 100,000 square feet	5 spaces for each 1,000 square feet of gross leasable area				
Shopping center 100,000 square feet or greater	4.5 spaces for each 1,000 square feet of gross leasable area				
All other types of business or commercial uses permitted in any commercial district	1 for each 300 square feet of floor area				
Commercial Business and Personal Services					
Bank, financial institution, and similar uses	1 for each 150 square feet of floor area excluding storage area				
Commercial school or education program	1 for each 3 students				
Funeral home and similar type uses	1 for each 150 square feet of floor area devoted to viewing				
Medical and dental clinic and office	1 for every 200 square feet of floor area of examination, treating room office and waiting room				
Office, public or professional administration, or service building	1 for each 300 square feet of floor area				
Restaurant, dining room, tavern, night club	1 space per each 50 square feet of floor area devoted to customer service, but excluding food preparation and storage				
Fast food restaurant	1 space per each 75 square feet of floor area devoted to customer service, but excluding food preparation and storage				
Country inn	1 space per each guest room, plus 1 space per employee and 1 space per 50 square feet of dining room				
All other types of business or commercial uses permitted in any commercial district	1 for each 300 square feet of floor area				

Automobile and Related Services	
Automobile sales and service garage	2 spaces per service bay, plus 1.5 space per each employee
Animal Care and Service	
Animal hospital, veterinary clinic, kennel	1 space per 400 square feet of floor area excluding kennels, plus 1 space per examination room, plus 1 space per employee
Commercial Amusements	
Bowling alley	3 for each alley or lane, plus 1 additional space for each 100 square feet of the area used for restaurant, cocktail lounge or similar use, but excluding food preparation area and storage
Health club, fitness center, vocational/ sports training facility, commercial swimming pool	1 for each 5 persons capacity, plus 1 for each 4 seats or 1 for each 30 square feet floor area used for seating purposes, whichever is greater
Golf course	4 spaces per each hole, plus 1 space per each 50 square feet of floor area devoted to customer service, plus 1 space per 2 employees
Skating rink	1 for each 200 square feet of floor area used for the activity
Theater, outdoor or indoor stage, and similar uses	1 for each 4 seats
Library, museum and gallery	1 for each 400 square feet of floor area
Outdoor recreation center	1 space per driving range tee, plus 1 space per hole of miniature golf; plus 2 spaces per hole of chip and putt; plus 1 space per employee
Industrial Uses and Solid Waste Operations	
All industrial use and solid waste operation	1 for every 2 employees (on the largest shift for which the building is designed) plus 1 for each motor vehicle used in the business.
Warehouse	1 space for each 1000 square feet of floor area
Open Space and Institutional	
Shooting range	1 space per firing position, plus 1 space per 2 employees
Recreational vehicle campground, tent campground	1 space per campsite

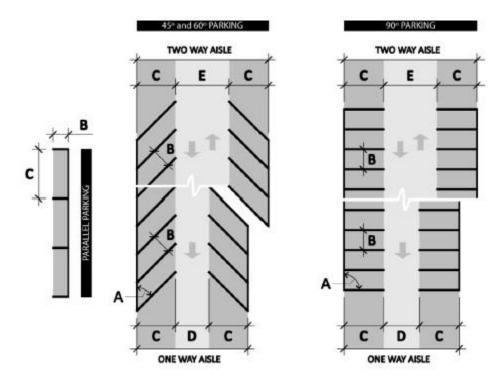
Institutional	
Child care center/ nursery school and similar uses	1.5 for each employee plus 1 for every 10 children approved for care
Place of worship and other places of religious assembly, civic community center, and civic service club	1 for each 5 seats
Group home, and similar uses	1 for each 4 beds
Housing for the elderly, assisted living	1 for each 3 units
Hospital	1 for each bed, plus 1 space per each 3 employees
Governmental and Nongovernmental Utiliti	es
Arena or stadium	1 for each 4 seats
College or university	1 for each 4 students
Elementary and junior high school	2 for each classroom and 1 for every 8 seats in auditoriums or assembly halls
High school	1 for every 10 students and 1 for each teacher and employee

(B) *Parking area dimensions*. Parking areas shall conform to the following dimension requirements:

(1) Parking space and aisle dimensions.

A	В	С	D	E
Parking Angle	Stall Width	Stall Depth	Aisle Width One-Way	Aisle Width Two-Way
90°	9'	18'	22'	24'
60°	9'	19'	*18'	22'
45°	9'	17'	*15'	22'
Parallel	8'	22'	N/A	N/A

<sup>\*</sup>Except where an increase is required based on local Fire Code access requirements



- (2) An increase in stall and aisle width dimensions may be granted when recommended by the [Division of Permitting and Development Review] COMMUNITY DEVELOPMENT DIVISION Traffic Engineer and approved by the Planning Commission or their authorized representative (as provided in §§ 1-19-3.300 through 1-19-3.300.4), for the following:
- (a) Safety or site circulation needs which shall be based on an evaluation of land use turnover rates (ITE Traffic Engineering Handbook, 6th Edition as amended), circulation efficiency, and parking availability.
- (3) A decrease in stall and aisle width dimensions may be granted when recommended by the [Division of Permitting and Development Review] COMMUNITY DEVELOPMENT DIVISION Traffic Engineer and approved by the Planning Commission or their authorized representative (as provided in §§ 1-19-3.300 through 1-19-3.300.4), where narrower dimensions can be reasonably accommodated with no adverse impact on safety or site circulation efficiency for the following:
- (a) Compact development patterns based on land use characteristics and typical vehicle size;
- (b) Single-loaded and no-loaded parking aisles;
- (c) Historic retrofit, adaptive reuse, and redevelopment projects.
- (C) *Parking area construction*. Required parking areas shall be constructed of a material with spaces clearly delineated in a manner approved by the Planning Commission.
- (D) Compact parking spaces. The Planning Commission may require up to 15% of the required parking spaces to be constructed for compact 90° vehicle parking. Compact parking spaces shall be signed or painted with the words "compact". Compact parking space dimensions shall be 8' in

width and 16' in length. To provide for compact vehicle parking which functions most efficiently where applied, the calculation of required compact parking spaces shall be based on an evaluation of parking area design, proposed use, and expected vehicle parking turnover rates as provided by the applicant.

- (E) *Handicapped accessibility*. All parking areas shall include handicapped accessible spaces in conformance with the Maryland Accessibility Code.
- (F) Adjacent parking areas. Where a proposed parking area is adjacent to a developed or undeveloped site within the same or similar zoning district, the proposed parking area must be designed to connect to the existing or future adjacent parking area. This requirement may be waived by the Planning Commission where it is deemed to be impractical.
- (G) *Pedestrian access*. Clearly delineated pedestrian crosswalks, sidewalks, and walkways shall be provided to allow safe, convenient, and direct access within the parking area, and from the parking area to building entrances.
- (H) Bicycle parking.
- (1) For the purposes of this chapter, the bicycle parking requirements in the following table will apply:

		Required Bicycle Parking	
Use Categories	Specific Uses <sup>1</sup>	Class A (Locked Room or Lockers)	Class B (Bicycle Racks) 1 Rack = 2 bike parking spaces
Residential <sup>2</sup>	Multifamily dwelling, multifamily group development, or townhouse w/o garage (8 or more units)	Locked room or lockers with space for 4 bikes for each 10 units	1 rack for each 10 units, minimum 2. Not required if Class A parking is provided
	Motel, hotel	None	1 rack for each 20 auto spaces, minimum 1, maximum 10
Commercial (5,000 Square Feet GFA or Greater)	All	None	1 rack for each 20 auto spaces, minimum 1, maximum 10
Office / Research / Industrial (5,000 Square Feet GFA or Greater)	Planned Industrial / Commercial Development, Office Research or Industrial parks planned as a unit, and MXD zoning district	None	1 rack per 40,000 SF of GFA, minimum 1, maximum 10.
Open Space and Institutional / Government / Commercial	Commercial amusements / fairground / arena or stadium / civic community center	None	1 rack for each 20 auto spaces, minimum 1, maximum 20
Amusements	Transit centers / rail	None	minimum 10

	stations		
	Park and ride	None	1 rack for each 50 auto spaces, minimum 2
	School - K-8	None	1 rack for each classroom
	School 9-12	None	1 rack for each 2 classrooms
	College	Per campus plan as approved by Planning Commission	
	Hospital	None	1 rack for each 50,000 SF of GFA, minimum 1
	Place of worship	None	1 rack for each 20,000 SF of GFA, minimum 1
	Child care center	None	1 rack for each 20,000 SF of GFA, minimum 1

<sup>1:</sup> No bicycle parking required in Agricultural or Resource Conservation zoning districts unless the specific use is noted in the above table and the proposed site is within 1.2 miles of a designated growth area.

- (2) A reduction in required bicycle parking may be granted by the Planning Commission where the applicant can demonstrate need based on neighborhood characteristics, characteristics of the proposed use, or other documentation as approved by the Planning Commission.
- (3) The design of bicycle parking shall conform to the Frederick County Bicycle Parking Design Guide.

*Editor's note:* Subsection (H) *Bicycle parking* shall apply to applications for development receiving final site development plan approval after January 29, 2010.

(Ord. 77-1-78, § 40-45(C), 1-24-1977; Ord. 89-51-582, 8-15-1989; Ord. 92-23-058, 10-6-1992; Ord. 08-26-502, 10-14-2008; Ord. 09-21-525, 6-4-2009; Ord. 10-01-536, 1-19-2010; Ord. 10-26-561, 11-9-2010; Ord. 10-31-566, 12-21-2010; Ord. 11-25-591, 10-27-2011; Ord. 12-08-603, 4-17-2012)

# **№ § 1-19-6.230. JOINT USE PARKING.**

Joint parking uses are permitted subject to the following conditions.

- (A) The respective individual operations sharing the joint use of parking areas will not be opened or used during the same principal operating hours.
- (B) The parties and the land concerned with such joint use are to be effectively bound by a written joint use agreement, the legal sufficiency of which will be subject to the approval of the County Attorney.
- (C) Each unit of joint parking space may supply a unit of required off-street parking for each use bound by the written joint use agreement.

<sup>2:</sup> Where required, bicycle parking for residential uses may be provided as class A (locked room/lockers) or class B (racks)

(Ord. 77-1-78, § 40-45(D), 1-24-1977; Ord. 08-26-502, 10-14-2008)

## **凤** § 1-19-6.240. SHARED PARKING.

A partial reduction in the total number of required off-street parking spaces may be granted where the applicant can demonstrate the sufficient provision of shared parking facilities based on characteristics of uses, hourly parking demand studies published by the Institute of Transportation Engineering or other appropriate source, or other documentation as determined by the Planning Commission or their authorized representatives. A shared parking plan may utilize on-street parking, community/common parking, parking areas located on the same parcel as the proposed use, adjacent to the proposed use, or two parcels that are not adjacent, subject to the following provisions:

- (A) The shared parking facility shall be no farther than 500 feet from the building or use to be served;
- (B) A maximum of 50% of the required off-street parking may be located off-site;
- (C) Submission of a vicinity map reflecting the proposed shared parking areas(s), parking spaces, hours of operation, pedestrian access between parking area(s) and uses, as well as a detailed explanation of the proposed shared parking plan;
- (D) A safe, convenient pedestrian connection must exist or be constructed between the buildings or uses and the parking area(s);
- (E) The parties involved in the use of the shared parking plan shall provide evidence of an agreement for such use and parking plan by a legal instrument approved by the County Attorney.

(Ord. 07-27-467, 6-19-2007; Ord. 08-26-502, 10-14-2008)

#### **DIVISION 3. SIGNS**

## **■§ 1-19-6.300. ERECTION AND MAINTENANCE.**

Signs will be erected and maintained only when in compliance with the provisions of this and all other chapters relating to the erection, alteration, or maintenance of signs or similar devices.

(Ord. 77-1-78, § 40-46(A), 1-24-1977; Ord. 08-26-502, 10-14-2008)

## **■§ 1-19-6.310. GENERAL REGULATIONS.**

The following regulations will apply to all permitted sign uses.

- (A) No sign, other than an official traffic sign, will be located within the right-of-way lines of any street, except as provided in subsection (G) and subsection (I). A sign attached to a passenger shelter at a bus stop or transit center information kiosk is exempt from this chapter.
- (B) No free-standing sign will exceed 25 feet in height, except as provided elsewhere in this section.

- (C) No permit is required for the erection, alteration or maintenance of any signs permitted in § <u>1-19-6.320</u>, paragraphs (1) through (6), of this Code or for political signs as set forth in subsection (H) below.
- (D) A permit is required for the erection or alteration of signs permitted in § 1-19-6.320, paragraphs (7) through (10) and as required in subsection (I) of this section.
- (E) Each sign will be removed when the circumstances leading to its erection no longer apply.
- (F) No sign will by reason of its intensity, color, location or movement interfere with traffic lights, signals, or other controls or obscure the view of a street or in any other manner impair public safety.
- (G) Subdivision and community identification signs are permitted in the right-of-way of monumented public streets, where median strips are used to channel traffic, providing that the sign is approved by the Zoning Administrator and he issues a revocable permit conditioned upon removal of the sign at no cost to the county at such time as the county may require. In addition, the following conditions shall be met.
- (1) The sign shall be kept in good repair and in safe, neat, clean, and attractive condition by the community residents or the community association.
- (2) The sign must be placed 10 feet from the nose of the monument or the end of the median strip and within the monument island.
- (3) The sign must be designed so as not to obstruct full sight distance.
- (H) Political campaign signs identifying candidates seeking public political office or political issues and other data pertinent thereto shall be permitted as set forth: Each sign shall be located within the owner's property boundaries and shall not be located within the public right-of-way.
- (I) Temporary real estate directional sign placement will be permitted in the county per the following guidelines.
- (1) A temporary real estate directional sign may not exceed 3 square feet in size.
- (2) A temporary real estate directional sign may not exceed 3 feet in height, measured from the ground to the top of the sign.
- (3) A temporary real estate directional sign shall be supported on metal or wooden stakes, supplied by the installer, and shall not be attached to trees, utility poles, traffic-control signs, traffic signal poles, walls of buildings, barns, sheds, fences, or other physical elements.
- (4) A temporary real estate directional sign may be placed only between the hours of 7:00 a.m. Saturday and 8:00 pm. Sunday. Hours may be extended to include legal holidays which are observed on Monday or Friday.
- (5) In the case of existing real estate, a maximum of 3 temporary real estate directional signs per open house are permitted, without obtaining a permit, but subject to the provisions of this section.

- (6) A maximum of 4 off-site community temporary real estate directional signs (not individual builders) are permitted upon the developer's obtaining a sign permit from the county which sets forth the locations of the signs and that placement will be in compliance with this section.
- (7) Individual builders will be permitted to place up to 4 temporary real estate directional signs within communities in which the building activity is occurring.
- (8) County staff is hereby authorized to remove any temporary real estate directional sign found to be in violation of the provisions of this section.
- (9) A temporary real estate directional sign may be placed in the county right-of-way, provided that it does not obstruct sight lines or pose any safety hazard to the public.
- (J) On-site signs determined by the Zoning Administrator to be directional signs used for the purpose of on-site way-finding are not included in calculating the maximum size sign permitted.

(Ord. 77-1-78, § 40-46(B), 1-24-1977; Ord. 84-31-328, 11-27-1984; Ord. 90-21-619, 5-15-1990; Ord. 92-26-061, 10-20-1992; Ord. 06-16-412, 5-16-2006; Ord. 08-26-502, 10-14-2008; Ord. 12-08-603, 4-17-2012; Ord. 13-25-653, 10-31-2013)

# **■§ 1-19-6.320. SIGNS PERMITTED AND REGULATED IN THE ZONING DISTRICT.**

For the purpose of this chapter, the following sign requirements will apply, unless otherwise provided in this chapter. For uses not listed in the following table or otherwise provided in this chapter, the Zoning Administrator shall determine the permitted signage. The determination shall be based upon similarity to an existing sign type within the table below or use within this chapter.

Sign Type		Maximum Size Permitted <sup>1</sup>		Zoning District Permitted*	Setback From Property Line <sup>3</sup>			Conditions Required to be Met
		Area sf = sq. feet	Height <sup>2</sup> f (feet)		Front	Side	Rear	
(1)	For Sale or Rent, directional	(6 sf)	(4 f)	All districts	1/2	1/2	1/2	One sign per street frontage (per lot)
(2)	Subdivision opening announcement	(100 sf)	(25 f)	All districts	1/2	1/2	1/2	One sign per street frontage
(3)	Contractors/ artisans job-site signs	(32 sf)	(12 f)	All districts	1/2	1/2	1/2	One sign per street frontage of job site
(4)	Schools, place of worship, civic	(32 sf)	(12 f)	Where use is permitted	1/2	1/2	1/2	One sign per street frontage

	organizations			by this chapter				
(4) (a)	Institutional, governmental, college, university campus	10√F	(12 f)	Where use is permitted by this chapter	1/2	1/2	1/2	One sign per street frontage
(5)	Home occupation	(2 sf)	(6 f)	In district where use is permitted	1/2	1/24	1/2	One sign only. Signs in R Districts must be attached to principal or accessory structure.
(5)(a)	Professional office as accessory use on residential properties	(6 sf)	(6 f)	Where use is permitted by this chapter	1/2	1/2	1/2	One sign only.
(6)	Limited roadside stand, business identification for those natural resource uses permitted subject to design regulations 'P' within the RC or A districts <sup>5</sup> as provided in § 1-19-5.310	(32 sf)	(15 f)	RC and A districts	N.A.		One sign per street frontage	
(7)	Commercial and industrial owner identification and product, place of worship	10√F	(25 f)	All commercial and industrial districts	1/2	1/2	1/2	May not project more than 30" from face of building unless used as a freestanding sign
(8)	Shopping Center (includes all stores	30√F	(40 f)	All commercial districts	1/2	1/2	1/2	No more than one freestanding

	within)							sign, including shopping center identification sign per street frontage
Sign Type		Maximum Size Permitted <sup>1</sup>		Zoning District Permitted	Setback From Property Line <sup>3</sup>			Conditions Required to be Met
		Area sf = sq. feet	Height <sup>2</sup> f (feet)		Front	Front Side Rear		
(8)(a)	Fuel pricing	(24 sf)	(12 f)	All commercial districts	1/2	1/2	1/2	Only one freestanding sign for pricing information when shopping center has over 400 ft of total road frontage and may be no more than 150 ft from a wall of the station
(9)	Industrial Park (includes all uses within)	30√F	(40 f)	All industrial districts	1/2	1/2	1/2	No more than one freestanding sign, including industrial park identification sign per street frontage
(10)	Billboard	(360 sf)	(25 f)	HS, GC, LI and GI	S	S	S	No more than 1 billboard per lot, tract or parcel. Must be at least 300 ft distant from any R District. May not be closer than 200 ft to an

								existing dwelling on an adjoining property. May not be located within 100 ft of any street intersection
(11)	Subdivision and Community Identification	(64 sf) per entrance	(6 f) per entrance	All districts	15 ft setback from right-of-way		No more than 2 signs per roadway entrance to subdivision or community	
(12)	Business identification within the RC or A districts <sup>5</sup>	(25 sf)	(15 f)	RC and/or A districts	1/2	1/2	1/2	One freestanding sign
(13)	Golf course, cemetery/memorial garden	(25 sf)	(15 f)	Where use is permitted by this chapter	1/2	1/2	1/2	One sign per street frontage

<sup>&</sup>lt;sup>1</sup> Combined total of all signs on a single property shall not exceed maximum size permitted.

S means equal to the yard setback requirements for the district.

F measured in linear feet and is the larger of the measurement of (1) the side of the building facing a public street (measurement S) or (2) the side of the building on which is located the primary public access to the building (measurement A). When measurement A is used to calculate sign size, the maximum size of any sign located on a side of the building facing a public street cannot be greater than the maximum sign size that would be permitted if measurement S was used. Where the building faces multiple public streets, F shall equal the total of measurement A and measurement S.

<sup>&</sup>lt;sup>2</sup> If not attached to building.

<sup>&</sup>lt;sup>3</sup> ½ means one-half the yard requirements for the district.

<sup>&</sup>lt;sup>4</sup> For panhandle lots the side setback shall be at least 25% of the panhandle width.

<sup>&</sup>lt;sup>5</sup> Unless otherwise provided in this chapter.

<sup>\*</sup> Square footage of signs within the GC and industrial districts may be increased by 25% if no free-standing or pylon-type signs are used ( $\frac{1-19-7.510}{2.00}$ , and  $\frac{1-19-7.600}{2.00}$ ).

(1959 Code, § 1-19-183) (Ord. 77-1-78, 1-24-1977; Ord. 77-10-87, 8-22-1977; Ord. 84-31-328, 11-27-1984; Ord. 85-22-354, § 40-46(2), 5-28-1985; Ord. 90-45-643, 11-20-1990; Ord. 03-04-327, 4-21-2003; Ord. 08-26-502, 10-14-2008; Ord. 09-21-525, 6-4-2009; Ord. 10-01-536, 1-19-2010; Ord. 11-06-572, 5-17-2011; Ord. 11-25-591, 10-27-2011; Ord. 12-08-603, 4-17-2012)

## **■§ 1-19-6.330. TEMPORARY BUSINESS SIGNS.**

Temporary business signs located on the property of the business being advertised are permitted in any commercial district without a permit, if the total allowable square footage for all signs on the property is not exceeded and all signs meet the setback requirements for principal buildings on the same lot.

(Ord. 77-1-78, § 40-46(O), 1-24-1977; Ord. 08-26-502, 10-14-2008)

## **■**§ 1-19-6.340. ELECTRONIC MESSAGE SIGNS.

- (A) Electronic message signs are allowed as follows:
- (1) Animated, flashing, blinking, reflecting, revolving, full motion or any other similar message or transitional movement is prohibited.
- (2) Signs will only be designed as a wall or monument sign.
- (3) Only 1 electronic message sign is permitted on a lot.
- (4) The advertisement of off-premise businesses or services is not allowed.
- (5) Each message shall not change more than once every 10 seconds.
- (6) Signs shall not exceed the total sign area permitted on the site and shall not exceed a maximum of 32 square feet.
- (7) All signs must utilize automatic dimming capability that adjusts the brightness to the ambient light at all times of the day so that signs are not unreasonably bright for the safety of the motoring public.

(Ord. 11-06-572, 5-17-2011)

#### **DIVISION 4. LANDSCAPING AND SCREENING**

# **■** § 1-19-6.400 LANDSCAPING AND SCREENING.

In accordance with the site plan review process provided in §§ 1-19-3.300 through 1-19-3.300.4, the Floating Zone Phase II execution process provided in §§ 1-19-10.500 through 1-19-10.500.11, or as otherwise provided within this chapter the Planning Commission may require landscaping, screening, and buffering along the property line and around and within the parking areas. Landscaping, screening, and buffering shall be provided in conformance with the following minimum standards:

- (A) *Street trees*. Street trees shall be provided along the property line adjacent to the paved surface of an existing or proposed public right of way in a planting area no less than 7 feet wide, and planted with shrubs or trees in accordance with the following minimum standards:
- (1) One tree at least 6 feet in height at the time of planting shall be provided per 35 feet of roadway frontage.
- (2) An alternate on-site location for trees may be approved by the Planning Commission or Planning Commission authorized representative when a specific finding is made that the alternate location is required due to:
- (a) Physical site constraints; or
- (b) The irregular and non-linear nature of landscaping in the GI zoning district or, the RC, A, R1, or VC zoning districts outside of community growth areas; or
- (c) Approval of an alternate planting design by the Planning Commission.
- (B) Land use buffering and screening. To achieve buffering and screening between land uses the following shall be provided along common property lines:
- (1) Where industrial, mineral mining, or solid waste uses are located adjacent to residential zoning districts: a mixture of plantings including predominantly evergreen shrubs or trees spaced at intervals which are expected to achieve a mixture of height at maturity between 6 feet and 15 feet and to provide complete buffering and screening from the residential zoning district, as determined by the Planning Commission.
- (2) Where commercial or institutional uses are located adjacent to residential zoning districts: a mixture of plantings including predominantly evergreen shrubs or trees spaced at intervals which are expected to achieve a mixture of height at maturity between 6 feet and 15 feet and to provide effective buffering, as determined by the Planning Commission.
- (3) All other uses: buffering and screening for all other land uses shall be determined by the Planning Commission.
- (C) *Parking area buffering and screening*. Parking areas shall be screened from roadways in accordance with the following minimum standards:
- (1) Where parking areas are adjacent to residential uses or zoning districts, or roadways with at least a collector status as designated on the County Comprehensive Plan: plantings of predominantly evergreen shrubs or trees spaced at intervals which may be expected to form effective buffering and screening at least 30 inches high at the time of planting.
- (2) All other parking areas: plantings of predominantly evergreen shrubs or trees spaced at intervals which may be expected to form effective buffering at least 30 inches high at the time of planting.
- (D) *Parking area landscaping*. Within required parking areas landscaping shall be provided in accordance with the following minimum standards:

- (1) Parking areas shall be separated into bays with an average of no more than 10 parking spaces. Each parking bay shall contain no more than 15 continuous parking spaces. Between or at the end of each bay of parking spaces there shall be a planting area of at least 5 feet in width. Each planting area shall contain 1 tree at least 6 feet in height at the time of planting and groundcover containing at least two shrubs for every 100 square feet of landscape area.
- (2) Planting area trees shall be predominantly deciduous and provide at least 20% canopy cover at maturity.
- (E) Landscaping, screening, or buffering:
- (1) Shall be maintained in a living condition;
- (2) Shall emphasize native species, where soil base permits, as listed in Exhibit L1 and L2 of the Frederick County Forest Resource Ordinance, as amended.
- (3) Shall not include species identified as invasive/exotic species as listed in Exhibit K of the Frederick County Forest Resource Ordinance, as amended.
- (4) Shall be located in accordance with § 1-19-4.610.
- (5) Shall be located and maintained in a condition to minimize adverse impacts on sightlines and visibility.
- (6) Opaque fencing, walls, and berms shall be maintained.
- (F) Existing vegetation may be used to meet the requirements in this section.
- (G) Opaque fencing, walls, or berms may be used in addition to trees and shrubs to meet the minimum buffering and screening standards subject to approval of the Planning Commission. Opaque fencing, walls, or berms shall be constructed of materials reflective of neighborhood characteristics as approved by the Planning Commission. Chain link fencing with vinyl privacy slats shall be utilized only within industrial zoning districts where specifically approved by the Planning Commission.
- (H) *Application*. To demonstrate the manner in which the application meets landscaping, buffering, or screening requirements within this chapter, a landscaping, buffering, and screening plan shall be approved as part of the site plan review and approval process (§ <u>1-19-3.300.3</u>). The landscaping, buffering, and screening plan shall include the following elements:
- (1) A form acceptable to the [Division of Permitting and Development Review] COMMUNITY DEVELOPMENT DIVISION.
- (2) The type and location of all proposed landscaping, buffering, and screening including:
- (a) Species identification;
- (b) The height and width of proposed trees or shrubs at planting and maturity;
- (c) Identification of existing trees or shrubs to remain including height and width.
- (3) Where proposed, fences, walls, or berms including:

- (a) Height and width;
- (b) Type of material;
- (c) Cross-section and elevation details.
- (4) The total number and percentage mixture of existing and proposed native species.
- (5) The application shall demonstrate the manner in which on-site recycling and refuse management shall be accommodated including:
- (a) Location of refuse/recycling containers;
- (b) Dimensions of refuse/recycling location;
- (c) Proposed access for loading and unloading;
- (d) Type of material proposed as screening.
- (I) The Planning Commission may modify the minimum landscaping, buffering, and screening standards where a specific finding is made that the required standards result in a practical difficulty, and where an alternate landscaping, buffering, and screening plan is approved by the Planning Commission.

(Ord. 09-22-526, 7-14-2009; Ord. 10-01-536, 1-19-2010; Ord. 13-25-653, 10-31-2013)

#### **DIVISION 5. LIGHTING**

## **№** 1-19-6.500 LIGHTING.

- (A) In accordance with the site plan review process provided in §§ 1-19-3.300 through 1-19-3.300.4, the Floating Zone Phase II execution process provided in §§ 1-19-10.500 through 1-19-10.500.11, or as otherwise provided within this chapter, lighting shall be designed and installed to be fully shielded. Lighting shall be directed downward to prevent glare and light trespass onto adjacent properties, roadways, and the nighttime sky.
- (B) Pole and building mounted lighting shall not exceed a maximum height of:
- (1) 14 feet in pedestrian oriented developments including pedestrian components in Planned Unit Development (PUD), Mixed Use Development (MXD), Office Research/Industrial (ORI), and Planned Industrial/Commercial development;
- (2) 18 feet for commercial uses;
- (3) 24 feet for industrial uses;
- (4) Lighting height shall be measured from the ground to the point of illumination.
- (C) For the purpose of reduction in energy consumption, light trespass, and glare, proposed lighting shall utilize the lowest lighting levels feasible. Evaluation factors include: light distribution and overlap, number and height of fixtures.
- (D) Lighting shall not exceed .50 foot-candles as measured from the property line.

- (E) Lighting that is exempt from these requirements includes temporary lighting and lighting provided for emergency or safety purposes as required by: the Building Code, Electrical Code, or otherwise within the County Code.
- (F) *Application*. Where required within this chapter, a lighting plan shall be approved as part of the site plan review and approval process (§ <u>1-19-3.300.3</u>). The lighting plan shall include the following elements:
- (1) A form acceptable to the [Division of Permitting and Development Review] COMMUNITY DEVELOPMENT DIVISION;
- (2) The type and location of all proposed lighting including:
- (a) Lighting standards and specifications;
- (b) Photometric data, such as that furnished by the manufacturer, showing the angle of cut off of light emissions, upward and lateral glare shield details, and foot-candle light values for the entire site;
- (c) Building and pole mounting heights;
- (d) Hours of operation.
- (G) The Planning Commission may modify the lighting standards within this section based on characteristics of the proposed use, photometric studies, nationally recognized standards, or other documentation as approved by the Planning Commission.

(Ord. 09-22-526, 7-14-2009; Ord. 10-01-536, 1-19-2010; Ord. 10-26-561, 11-9-2010; Ord. 11-25-591, 10-27-2011; Ord. 13-25-653, 10-31-2013)

## ARTICLE VII: SUPPLEMENTARY DISTRICT REGULATIONS

Section

Division 1. Generally

1-19-7.100 Generally

Division 2. Resource Conservation District

1-19-7.200 Resource Conservation District

Division 3. Agricultural District

1-19-7.300 Agricultural District

Division 4. Residential Districts - Reserved

1-19-7.400 Residential Districts - Reserved

Division 5. Commercial Districts

<u>1-19-7.500</u> Village Center Zoning District Overlay standards

1-19-7.510 General Commercial

<u>1-19-7.520</u> Mixed Use

#### Division 6. Industrial Districts

1-19-7.600 Industrial Districts

1-19-7.610 Industrial District Performance Standards

1-19-7.620 Performance Standards for the Office/Research Industrial District (ORI)

#### **DIVISION 1. GENERALLY**

## **凤**§ 1-19-7.100. GENERALLY.

These supplementary district regulations are hereby adopted for the specific intent and purpose of protecting natural resources, scenic areas, areas of steep slope, woodlands, and areas of critical state concern. These regulations also attempt to direct anticipated growth to areas in which the provision of public services could be feasibly and economically provided.

- (A) *Petroleum, flammable liquids and hazardous substance storage tanks in all zoning districts.* The following provisions shall be applicable in all zoning districts where such use is permitted.
- (1) Petroleum or hazardous substance storage tanks shall have 100% catchment basin, or double-walled containment and a spill protection overfill alarm. This does not apply to propane or natural gas tanks.
- (2) Shall comply with § 1-6-50 Wellhead Protection Ordinance.

(Ord. 77-1-78, § 40-62, 1-24-1977; Ord. 07-16-456, 5-15-2007; Ord. 08-26-502, 10-14-2008)

#### **DIVISION 2. RESOURCE CONSERVATION DISTRICT**

# **■§ 1-19-7.200. RESOURCE CONSERVATION DISTRICT.**

The following provisions shall apply to the Resource Conservation (RC) District.

- (A) Lot area determination for residential uses.
- (1) On parcels, legal lots of record as of the effective date of Ord. 08-19-495, at least 10 acres in size, but less than 20 acres in size, one (1) residential lot and a remainder may be created by subdivision. These lots shall have a minimum lot size of 5 acres after subdivision of the lot, no further development rights shall exist on the lot or the remainder, and a note shall be placed on the record plat to this effect.
- (B) Sensitive area protection.
- (1) Areas with slopes of 25% grade and greater shall not be developed. Buildings and structures and parking areas shall not be located on slopes of 25% grade and greater.

- (2) Floodplains and wetlands shall be protected in accordance with the standards and requirements set forth in § 1-19-9.100 through § 1-19-9.130, Floodplain District regulations.
- (3) Habitats of threatened and endangered species, as identified by the Maryland Department of Natural Resources, shall be protected from development or disturbance. All subdivision and site development plans involving an area identified as a habitat site shall be referred by the county to the Maryland Natural Heritage Program for comment. On sites where a habitat is identified, a mitigation plan will be required to show that adverse impacts on habitat sites are minimized.
- (C) *Tree cutting and forestry activities.*
- (1) Forest cutting or clearing activities in connection with land development shall be minimized. All activities to which the forest resource ordinance apply shall be subject to the regulations and requirements set forth in that ordinance. In addition to the forest resource ordinance requirements, no more than 40,000 square feet shall be cleared for each home site. For all permitted nonresidential uses, site development plan approval shall require that site clearing is minimized.
- (2) Commercial logging and timber harvesting operations for which 5,000 square feet of soil is disturbed shall be subject to all state and local requirements, such as the following:
- (a) Review and approval of a timber harvest plan by the Frederick County Forest Conservancy District Board:
- (b) Approval of an erosion and sediment control plan by the soil conservation district.
- (c) Approval of a grading permit by the Frederick County [Department] DIVISION of Public Works.
- (d) Where applicable, approval of a stream crossing permit by water resources administration.
- (e) All applicable local, state and federal regulations concerning commercial logging and timber harvesting.
- (D) *Streets*. New subdivision streets will not be permitted to be established in the resource conservation district.
- (E) *Driveways*. Approval of a grading permit by the Frederick County [Department] DIVISION of Public Works shall be required for all driveways prior to site development to ensure that sediment and erosion control and stormwater management comply with soil conservation service standards.

(Ord. 77-1-78, § 40-62(A), 1-24-1977; Ord. 81-13-203, 5-26-1981; Ord. 95-02-126, 3-2-1995; Ord. 00-21-263, §1, 7-18-2000; Ord. 05-27-388, 10-25-2005; Ord. 08-19-495, 5-20-2008; Ord. 08-26-502, 10-14-2008)

### **DIVISION 3. AGRICULTURAL DISTRICT**

**■**§ 1-19-7.300. AGRICULTURAL DISTRICT.

- (A) In the Agricultural Zoning District, the preferred use is agriculture. The operation at any time of any machinery used in farming procedures and all other agricultural operations shall be permitted and have preference over all other uses.
- (B) The minimum lot size for single-family dwellings will be 40,000 square feet and, except as provided in § 1-19-7.300(C), subdivision will be permitted only as follows: a minor subdivision of 3 lots will be permitted to be subdivided off an original tract of land; thereafter land will have to be rezoned before additional dwellings, other than tenant houses, may be built. An original tract of land shall be as described in the county land records as of August 18, 1976.
- (C) *Clustering*.
- (1) Purpose and intent.
- (a) To encourage the conservation of farmland in the Agricultural Zoning District by planning the residential development allowed in the zone to provide for the best obtainable siting, access and location of lots on a tract.
- (b) To provide for a well-planned development while minimizing the use of prime agricultural land.
- (2) Requirements.
- (a) For the purpose of this subsection "clustering" shall be defined as directing the subdivision of lots on a single tract of land to meet the purposes of this section or transferring the authorized subdivision lots from adjacent tracts onto one tract for development. The Planning Commission shall make the final determination as to whether the cluster development can be achieved in keeping with the purposes of this section.
- (b) When transferring authorized subdivision lots from 1 or more tracts, the minimum original tract area required for transfer shall be 25 acres. However, adjoining tracts of less than 25 acres under the same ownership may receive the rights if the Planning Commission determines that this will preserve prime farmland.
- (c) Minimum lot size, width and yard areas shall be as specified in the Agricultural District. Lot sizes which are part of the cluster should be kept to a minimum in order to limit the impact on the future agricultural use of the remainder. Lot size shall average not more than 1.5 acres in size with no lots exceeding 2 acres. The Planning Commission shall have the authority to grant modifications to lot sizes based on percolation and other Health Department requirements.
- (d) Subdivision under this subsection shall be as follows. A minor subdivision of 3 lots will be permitted to be subdivided on an original tract of land 25 acres or less. An original tract shall be as defined in § 1-19-7.300(B). On an original tract of land containing more than 25 acres, the Planning Commission may allow 1 lot in addition to those allowed on lesser tracts for each additional 50 acres or part thereof above the first 25 acres subject to the requirements of this section. The Planning Commission may preclude clustering rights where subdivision under this section will not conserve farmland, such as where the tract is primarily in wooded areas, floodplains, wetlands, steep slopes and other areas not in pasture or crop use.

- (e) All clusters of 6 or more lots shall be served by an internal public street and shall not be stripped along an existing roadway.
- (3) Procedures.
- (a) *Concept plan*. For the subdivision of tracts eligible for cluster lots, a concept plan shall be submitted to the staff a minimum of 60 days prior to the meeting at which it is to be considered by the Planning Commission showing all standard and potential cluster rights to determine the feasibility of subdivision rights for the original tract(s) of land. The plan shall be prepared in accordance with a "sample" cluster plan and show the following:
- 1. The lot layout (scale no smaller than 1 inch equals 100 feet) including building restriction lines and appropriate dimensions;
- 2. Street layout;
- 3. Vicinity map (scale no smaller than 1 inch equals 2,000 feet) showing the tract(s) and total acreages included within the plan;
- 4. Topography with minimum 10 foot contours (USGS Topo. Interpretation is permitted for Concept Plan);
- 5. Development rights table indicating acreages and development rights, both standard and cluster, for each tract and the total;
- 6. Soils data for the cluster area and the remaining farmland.
- (b) The Planning Commission will have final approval over the location and layout of the proposed clustering of lots. The Planning Commission shall consider the following when reviewing Concept Plans.
- 1. *Soils*. The cluster plan should minimize the use of the higher quality soils (class I, II and III as designated in the soils classification study) and maximize the use of steeper sloped areas, areas of poorer soils and areas which are otherwise less productive for agricultural uses.
- 2. Surrounding land use and zoning. The cluster plan shall consider the existing land uses and zoning in the vicinity. Generally, new lots which are adjacent to existing development or residential zoning are preferred to creating an isolated cluster of new houses.
- (c) Concept plan approval shall become null and void at the end of 1 year from the date of approval unless a combined preliminary/final plat or a preliminary plat has been submitted for approval for the property.
- (d) If the concept plan is approved by the Planning Commission, the developer may then proceed with platting of the clustered development in accordance with the subdivision regulations and the approved concept plan. Final plats shall show all remaining parcels combined into 1 remainder except, however, any remaining parcel(s) separated by a public road shall be considered separate parcels and each parcel shall retain 1 development right. The plat shall bear a statement indicating that "The land lies within an approved agricultural cluster development and no further subdivision of the remaining land is permitted unless the property is placed in another zone or

further subdivision is allowed by ordinance or regulation of [the Board of County Commissioners] FREDERICK COUNTY, MARYLAND."

- (4) Even though a subdivision plat is not required for land subdivided for the purpose to be used as a farm, such subdivided land shall be counted as a lot and will be counted in the number of allowable lots that may be subdivided off the original tract of land.
- (5) When filing a subdivision plat for less than the 3 lots allowed to be subdivided off the original tract of land, the remaining parcel must be designated "Remainder" on the subdivision plat or lose all further subdivision rights allowed under this section.

(Ord. 77-1-78, § 40-62(B), 1-24-1977; Ord. 77-10-87, 8-22-1977; Ord. 81-3-193, 1-27-1981; Ord. 81-13-203, 5-26-1981; Ord. 86-35-412, 6-10-1986; Ord. 89-16-547, 3-21-1989; Ord. 94-19-114, 10-14-1994; Ord. 00-21-263, § 1, 7-18-2000; Ord. 05-27-388, 10-25-2005; Ord. 08-26-502, 10-14-2008)

#### **DIVISION 4. RESIDENTIAL DISTRICTS**

(RESERVED)

**■§ 1-19-7.400. RESIDENTIAL DISTRICTS.** 

(RESERVED)

#### **DIVISION 5. COMMERCIAL DISTRICTS**

## 

(A) *Purpose and intent*. To provide for the location of a mix of commercial services and residential development within the Village Center Zoning Districts of rural communities with well and septic, and regional/district communities where public water and sewer are either existing and/or planned. Village Center zoning is applied to communities that contain an older village center as well as historic resources which are unique characteristics of Frederick County. It is the intent of the overlay standards to distinguish between development in rural communities and growth area communities that accommodate differing intensities and densities of growth, as well as sustain the distinctive village center character and community identity through carefully planned development. The design standards are to ensure that new development is compatible with the unique characteristics within each community. The scale and density of new development shall conform to the existing development patterns of the specific community in which it is located as depicted within the Village Center Zoning District design guide.

#### (B) Application.

- (1) *Density*. Development within the Village Center Zoning District may not exceed 3 dwelling units per acre except in the growth area communities. In growth area communities the density shall not exceed 5 dwelling units per acre.
- (2) *Height*. Structures within the Village Center Zoning District may not exceed a maximum height of 30' and no more than 2 stories. In the growth area communities the Planning Commission may grant an increase in height of up to 40' and no more than 3 stories for townhouse, multi-family, transient housing, and commercial development. The Planning

Commission may grant an increased height when the specific finding is made that such increased height is:

- (a) Compatible with the pattern of or relationship to existing development on adjacent or confronting lots; and
- (b) Conforms to  $\S 1-19-7.500(C)$ .
- (3) *Setbacks*. Front, side, and rear setbacks will be determined based upon the average setbacks for structures located on all lots facing and adjacent to the proposed development, but in no event less than the specific minimum setbacks where provided in § 1-19-6.100. Where facing and adjacent lots are vacant, the setbacks shall be based upon the average setbacks of the nearest structures. Accessory and secondary buildings shall not be utilized to determine principal structure setback averages. Accessory structure setbacks shall be determined as provided for in §§ 1-19-4.300 through 1-19-4.300.1 or § 1-19-8.240, as applicable.
- (a) Where establishing average setbacks within the Village Center Zoning District:
- 1. The Zoning Administrator may approve an increase or decrease in the minimum setback requirements where a specific finding is made that the increase or decrease is consistent with the purpose and intent of the Village Center Zoning District overlay standards in § 1-19-7.500. In making this determination the Zoning Administrator may approve the elimination of an existing setback where the facing or adjacent setback is found to be significantly inconsistent with other existing setbacks within that Village Center Zoning District.
- (4) *Mixed uses.* Mixed-use development is encouraged within the Village Center Zoning District, including residential uses on the second or third floors above ground floor commercial uses. Multiple principal structures on a single lot may be permitted within the Village Center Zoning District through the site plan approval process when the Planning Commission specifically finds that the resulting development will provide an improved design that would not otherwise be created on multiple lots. In determining whether to allow development of multiple principal structures on a single lot the Planning Commission shall require:
- (a) Improved on-site and off-site traffic circulation for vehicles and pedestrians;
- (b) Building placement that provides for the concentration of service entrances, mechanical equipment, utilities and non-public facilities (i.e. refuse containers or outside storage) away from public access areas;
- (c) The provision of a common plaza/green area(s) (not including swimming pools or playgrounds) to be provided in addition to all other landscaping and setback requirements. The common plaza/green area(s) shall be calculated at the following rate: 726 square feet common plaza/green area(s) per 2,000 square feet of gross floor area or portion thereof;
- (d) Joint use or shared parking resulting in a reduction in the number of required off- street parking spaces;
- (e) A mix of integrated commercial and residential uses;
- (f) Preservation of a historic structure or historic site where applicable.

- (C) Design standards.
- (1) All new development within the Village Center Zoning District shall incorporate the following design standards in addition to all other applicable requirements of the Zoning Ordinance. New development will use existing development as a guide when determining site development, layout, bulk, and form of proposed structures within the Village Center District. New development should be designed and built to reflect existing neighborhood characteristics including shape, height, massing, roof shapes, and door and window placement and proportions.
- (2) The Planning Commission shall consider these standards in its review of all development within the Village Center Zoning District. The concept plan will allow for review of the proposed development in order to ensure consistency with the intent of the standards and the purpose of the VC district. The Planning Commission may not approve development applications that do not comply with the design standards or other requirements of this section.
- (3) Site development and layout.
- (a) Buildings shall be oriented such that the principal face of the building faces the most dominant adjacent public street as determined by the orientation of existing surrounding structures.
- (b) Multi-story buildings with commercial use(s) on the ground and lower floors and residential uses on the upper floor(s) are encouraged.
- (c) Garage and service doors for commercial development shall not be oriented to the dominant adjacent public street. Garage and service doors shall be located to the rear and/or side of buildings allowing for the principal face of the building to remain the dominant public street feature.
- (d) All equipment and supplies shall be stored, maintained, and repaired outside of the front yard area and within completely enclosed buildings. The Planning Commission may approve outdoor display of products at the time of site development plan review.
- (e) Parking shall be located to the rear and/or side of buildings. Parking lots shall not create long expanses of empty street frontage.
- (f) Shared parking is strongly encouraged. The Planning Commission may reduce the minimum parking requirements where the applicant can demonstrate the need for fewer parking spaces due to availability of on-street parking, joint parking, community/shared parking as otherwise provided under § 1-19-6.240.
- (g) Roadside sidewalks shall be provided when sites are developed or redeveloped. Sidewalks linking adjacent parcels along the primary street shall be provided wherever practical.
- (h) Streets and roadways shall link to existing road networks and follow the established predominant street pattern.
- (i) Refuse and recycling dumpsters shall be located away from public access areas and may be required to be screened. The most appropriate screening shall be determined at site development plan review with materials reflecting neighborhood characteristics as approved by the Planning Commission.

- (4) Building massing and bulk.
- (a) The overall form of proposed buildings, such as height, front and side yard setbacks, roof pitch, and length of building frontage shall be similar to the surrounding buildings in order to maintain a consistent pattern and texture in the built environment.
- (b) Community or institutional buildings may be granted increased height allowances for architectural features that signify the function or importance of the building to the community.
- (c) Where abutting a public street, townhouse and multi-family structures shall have a maximum width of three dwelling units.
- (d) Non-residential buildings shall not exceed a maximum footprint of 5,000 square feet except within the growth area communities where the Planning Commission may grant a maximum non-residential building footprint of up to 8,000 square feet. The Planning Commission may increase the maximum footprint above 8,000 square feet within growth area communities where:
- 1. The increased footprint is compatible with the pattern of or relationship to existing or approved development on adjacent or confronting lots; and
- 2. The proposed building and site design provide a transition between existing structures on adjacent and confronting lots and the proposed development; and
- 3. The proposed development results in preservation and integration of historic resources into the development where applicable; and
- 4. The increased building footprint does not exceed a maximum total of 10,000 square feet; or the increased building footprint is in accordance with county community and corridor plans.
- (e) The Planning Commission may require changes to building and site design where an increase above 5,000 square feet has been requested, to minimize negative impacts on surrounding properties that may result from the increased footprint. The building and site design changes shall be limited to new construction and may include: location of public access, buffering and screening, landscaping, lighting, outdoor recreation areas, building location and orientation. The Planning Commission must make a specific finding identifying the negative impacts on surrounding properties where changes to building and site design are required.
- (f) Building designs shall not include flat roofs, large expanses of undifferentiated facades, and long plain wall sections.
- (D) *Procedures concept*. Development requiring site plan review must receive concept approval from the Planning Commission or its authorized representative as the first step in the development review process. The concept must demonstrate the manner in which the Village Center Zoning District design standards have been met by the proposed development. (§ <u>1-19-3.300.2</u>)

(Ord. 07-27-467, 6-19-2007; Ord. 08-26-502, 10-14-2008; Ord. 10-01-536, 1-19-2010; Ord. 11-06-572, 5-17-2011)

# **■§ 1-19-7.510. GENERAL COMMERCIAL.**

The following provisions shall be applicable in the General Commercial District.

- (A) Access requirements. One combined entrance/exit is permitted for each 200 feet of frontage. Access to corner lots will be at least 100 feet from intersecting street rights-of-way. Entrances to individual lots on a frontage road will be a minimum of 200 feet apart, except when developing on the circumference at the end of a cul-de-sac, then entrances may be less than 200 feet apart; however, combined entrances with adjoining properties shall be provided to limit the number of access points and give the maximum separation possible.
- (B) *Vehicle and pedestrian circulation*. A plan for the internal circulation of vehicles and pedestrians will be reviewed and approved by the [Planning Department] DEPARTMENT OF PLANNING AND DEVELOPMENT REVIEW.
- (C) Signs. Square footage may be increased by 25% if no free-standing or pylon-type signs are used.
- (D) *Storage and operations*. Notwithstanding other provisions of this Code, all operations and the storage of equipment, materials, or products in the GC District shall be conducted within completely enclosed buildings. Storage may be permitted outdoors only when completely screened by a wall, opaque fence, or planting so that such materials will not be visible from a public way or adjoining property. The most appropriate screening for the use shall be determined at site development plan review.
- (E) Refuse and recycling dumpsters shall be located away from public access areas and may be required to be screened. The most appropriate screening shall be determined at site development plan review with materials reflecting neighborhood characteristics as approved by the Planning Commission.

(Ord. 77-1-78, § 40-62(C), 1-24-1977; Ord. 81-3-193, 1-27-1981; Ord. 83-14-281, 6-7-1983; Ord. 08-26-502, 10-14-2008; Ord. 09-21-525, 6-4-2009; Ord. 10-01-536, 1-19-2010; Ord. 11-25-591, 10-27-2011)

# **■**§ 1-19-7.520. MIXED USE.

In accordance with the site plan review process provided in  $\S\S 1-19-3.300$  through 1-19-3.300.4, the following provisions shall be applicable in the Mixed Use (MX) District.

- (A) *Storage and operations*. Notwithstanding other provisions of this code, all operations and the storage of equipment, materials, or products in the Mixed Use District shall be conducted within completely enclosed buildings. Storage may be permitted outdoors only when completely screened by a wall, opaque fence, or planting so that such materials will not be visible from a public way or adjoining property. The most appropriate screening for the use and approval for outdoor display of products shall be determined at the time of site development plan review.
- (B) Refuse and recycling dumpsters shall be located away from public access areas and may be required to be screened. The most appropriate screening shall be determined at site development plan review with materials reflecting neighborhood characteristics as approved by the Planning Commission.

- (C) Development shall comply with adopted County Community or Corridor Plans for the area where the development is proposed.
- (D) Utilize building mounted or monument signs rather than pylon signs.
- (E) *Site development and layout.* The following site development and layout standards shall be met at the time of Site Development Plan Review:
- (1) Facilitate safe and convenient access to public transit through building placement and site design in accordance with the Frederick County Transit-friendly Design Guidelines.
- (2) Orient buildings so that rear entrances and rear façades face away from roadways, pedestrian and public areas.
- (3) Orient as many buildings as possible to pedestrian ways, public streets, or internal roadways in larger developments.
- (4) Provide for the concentration of service entrances, mechanical equipment, utilities and non-public facilities (i.e. refuse containers or outside storage) away from public access areas.
- (5) Mark or construct pedestrian walkways and crossings of materials that provide a distinction from areas of vehicular movement.
- (6) Locate parking predominantly to the side and or rear of buildings and design the parking areas to facilitate pedestrian movement.
- (7) Parking lots shall not create long expanses of empty street frontage.
- (8) Design projects to link to existing and planned road networks, incorporate an interconnected street grid, and avoid commercial 'strip' development where vehicular access is achieved directly to a collector classification roadway or higher.
- (9) Design projects to facilitate joint use, shared parking, and the use of parking structures. Evaluation factors include: building and parking placement, mixture of land uses, and parking recommendations contained within the adopted community or corridor plan where the project is proposed.
- (10) Provide shared access and interior drives with allowance for interconnection between properties where feasible. The Planning Commission may require consolidation of multiple access points in complying with this standard. At the rear of properties access should be provided by alleyways or parking lot interconnections.
- (F) *Building massing and bulk*. The following building massing and bulk standards shall be met at the time of site development plan review:
- (1) Individual structures shall not exceed the maximum building footprint as provided within the adopted county community or corridor plan.
- (2) Incorporate pedestrian scale building design and architectural elements at building entrances and where abutting a public right-of-way. Evaluation factors include: balconies, terraces, windows, canopies, porches, and benches.

- (3) Provide a primary pedestrian entrance onto a street, square, plaza, or sidewalk.
- (4) Design and construct buildings to include finishes and materials of consistent quality and design on all sides such as: changes in building plane, windows, doorways, entrances, overhanging eaves, and shutters. Buildings shall not include long expanses of undifferentiated façades and long plain wall sections.
- (5) Design and construct buildings with materials and architecture of traditional villages and towns throughout Frederick County and Central Maryland, unless otherwise provided within adopted county community or corridor plans.
- (6) Locate and design buildings with consideration to the surrounding development with regard to scale and setbacks.
- (G) Modifications.
- (1) The Planning Commission may modify the development standards in § 1-19-7.520(D) through (F), lot area, lot area per unit, lot width, setback, and height requirements (as provided in § 1-19-6.100 Design Requirements) for the MX District and maximum building footprint as provided in § 1-19-7.520(F)(1). The Planning Commission may approve a modification where a specific finding is made that:
- (a) The modification is in conformance with the adopted county community or corridor plan; and
- (b) The modification provides for an improved design that furthers the goals within the adopted county comprehensive, community, or corridor plan, and would not otherwise be possible within the existing regulations; and
- (c) All other provisions of this chapter are met.
- (2) Where MPDUs are provided the modification shall not exceed the area, width, yard, and height measurements as provided in § <u>1-19-8.620.5</u>.
- (3) The Planning Commission may require modifications to building and site design where an increase in maximum building footprint has been granted, to address potential negative impacts on surrounding properties that may result from the increase. The building and site design modifications may include: location of public access, buffering and screening, landscaping, lighting, outdoor recreation areas, building location and orientation.
- (H) Multiple structures and mixed uses.
- (1) Mixed-use development is encouraged in the MX District including a mixture of residential, commercial and employment uses within a structure, a lot or the district. Multiple principal structures and uses on an individual lot are permitted within the MX District when approved by the Planning Commission through the Type I Site Plan Review process (§§ 1-19-3.300 through 1-19-3.300.4) where the Planning Commission finds that the following criteria have been met in addition to the other provisions in this section:

- (a) Where identified within an adopted county community or corridor plan, residential, commercial, or employment land uses, or a mixture thereof, shall be provided. The mixture of land uses shall comply with the adopted community or corridor plan and be approved by the Planning Commission.
- (b) Land uses shall be integrated through provision of the following: bicycle, pedestrian, transit, and vehicular connections between uses; site design and building placement that facilitates land use interaction rather than separation; land use location that provides for a transition between land uses in both design and intensity, rather than segregation of land uses.
- (c) Multiple structure and mixed use development that includes a residential component shall provide a common plaza/green area (not including swimming pools or playgrounds), in addition to all other landscaping and setback requirements, at the following rate: 363 square feet of common plaza/green area per 2,000 square feet of gross floor area or portion thereof. A green roof may be considered toward meeting common plaza/green area requirements.
- (d) Where provided in (c) above, the common plaza/green area shall be centrally located to act as a focal point to the development.
- (e) To the greatest extent feasible shared and joint use parking shall be integrated into the overall parking plan to achieve a reduction in on-site parking and impervious surface. Evaluation shall include the feasibility of utilizing parking structures in meeting on-site parking requirements.
- (I) Review and approval procedures.
- (1) *Concept plan*. Development requiring site development plan review, as provided in § 1-19-5.310 Use Table, shall receive concept plan approval from the Planning Commission or its authorized representative as the first step in the development review process. The concept plan, submitted in conformance with § 1-19-3.300.2(B), shall demonstrate:
- (a) The manner in which the standards within this section have been met by the proposed development; and
- (b) The manner in which the proposed development conforms to adopted county community or corridor plans for the area where the development is proposed.
- (J) The provisions of this section shall apply to all site development plans or amendments to approved existing site development plans filed on or after December 2, 2011.

(Ord. 11-28-594, 11-22-2011)

#### **DIVISION 6. INDUSTRIAL DISTRICTS**

# **■**§ 1-19-7.600. INDUSTRIAL DISTRICTS.

The following provisions shall be applicable in the Industrial Districts.

(A) *Access requirements*. One combined entrance/exit is permitted for each 200 feet of frontage. Access to corner lots will be at least 100 feet from intersecting street rights-of-way. Entrances to individual lots on a frontage road will be a minimum of 200 feet apart, except when developing on the circumference at the end of a cul-de-sac, then entrances may be less than 200 feet apart;

however, combined entrances with adjoining properties shall be provided to limit the number of access points and give the maximum separation possible.

- (B) *Vehicle and pedestrian circulation*. A plan for the internal circulation of vehicles and pedestrians will be reviewed and approved by the [Planning Department] DEPARTMENT OF PLANNING AND DEVELOPMENT REVIEW.
- (C) *Signs*. Square footage may be increased by 25% if no free-standing or pylon-type signs are used.
- (D) Storage and operations. Notwithstanding other provisions of this Code, all operations and the storage of equipment, materials, or products in the industrial districts shall be conducted within completely enclosed buildings. Storage may be permitted outdoors only when completely screened by a wall, opaque fence, or planting so that such materials will not be visible from a public way or adjoining property. The most appropriate screening for the use shall be determined at site development plan review. The Planning Commission may waive or modify the requirement for complete screening between adjoining properties where the adjoining properties are similar in use and reduction or elimination of complete screening will not adversely impact adjoining properties.
- (E) Refuse and recycling dumpsters shall be located away from public access areas and may be required to be screened. The most appropriate screening shall be determined at site development plan review with materials reflecting neighborhood characteristics as approved by the Planning Commission.

(Ord. 08-26-502, 10-14-2008; Ord. 09-21-525, 6-4-2009; Ord. 10-01-536, 1-19-2010; Ord. 11-25-591, 10-27-2011)

# **■§ 1-19-7.610. INDUSTRIAL DISTRICT PERFORMANCE STANDARDS.**

The following performance standards for Limited and General Industrial Districts are designed to reduce the impact of industrial districts on surrounding uses by lessening traffic congestion, protecting the health and safety of workers and nearby residents, and by preventing detrimental effects on properties adjoining or in the neighborhood. All applications for a site plan approval must be accompanied by a registered engineer's certification that the use complies with all of the applicable standards. Upon receipt of the certification, the Zoning Administrator will issue a zoning certificate. After occupancy, if there occurs continuous or frequent, even though intermittent, violations of the performance standards and provisions of these regulations without bona fide and immediate corrective work, the Zoning Administrator will suspend or revoke the zoning certificate of the use and the operation shall immediately cease until it is able to operate in accordance with this chapter, at which time the zoning certificate shall be reinstated.

## (A) Storage and operations.

(1) In the LI District all operations and the storage of equipment, materials or products will be conducted within completely enclosed buildings or storage may be permitted outdoors only when completely screened by a wall, opaque fence, or planting so that such materials will not be visible from a public way or adjoining property. The Planning Commission shall determine the most appropriate screening for the use. The Planning Commission may waive or modify the

requirement for complete screening between adjoining properties where the adjoining properties are similar in use and reduction or elimination of complete screening will not adversely impact adjoining properties.

- (2) (a) In the GI District, a use is permitted either indoors or outdoors but in conformance with the following.
- (b) *Storage*. Storage in a GI District within 500 feet of a residential district boundary may be outdoors but will be effectively screened by a solid wall, fence, or planting so that the materials will not be visible from the Residential District.
- (B) Noise.
- (1) Noise will be measured with a sound level meter. Impact noise will be measured using the fast response of the sound level meter. Impact noises are intermittent sounds such as from a punch press or drop force hammer.
- (2) The following table describes the maximum sound pressure level permitted from any industrial source and measured in any adjacent Residential District, Commercial District, or LI Limited Industrial Lot.

Maximum permitted sound levels, dB(A)								
Sound Measured to:	Decibels Continu Responses	uous Slow Meter	Impact Fast Meter Response					
	LI	GI	LI	GI				
Residential District	55	55	60	60				
Commercial District	64	64	70	75				
LI District lot, adjacent to noise source	70	75	80	-				

- (3) The following sources of noise are exempt.
- (a) Transportation vehicles not under the control of the industrial use.
- (b) Occasionally used safety signals, warning devices, and emergency pressure relief valves.
- (c) Temporary construction activity between 7:00 a.m. and 7:00 p.m.
- (C) *Vibration*. No vibration will be produced which is transmitted through the ground and is discernible without the aid of instruments at or any point beyond the lot line; nor will any vibration produce a particle velocity of 2 inches per second measured at or beyond the lot line.
- (D) Dust and particulates.
- (1) The total emission rate of dust and particulate matter from all vents, stacks, chimneys, flues or other opening or any process, operation, or activity except solid waste incinerators within the boundaries of any lot, will not exceed the levels set forth below. Emissions of dust and particulates shall be in accordance with the State of Maryland rules and regulations governing air contamination and air pollution, and, in case of conflict, the most restrictive will apply.

(2) Particulate matter emission from materials or products subject to becoming windborne will be kept to a minimum by paving, sodding, oiling, wetting, covering or other means, such as to render the surface wind resistant. Such sources include vacant lots, unpaved roads, yards and storage piles or bulk material such as coal, sand, cinders, slag, sulfur, and the like.

### Ambient Air Quality Standard (LI and GI Districts)

Particulate Matter

Suspended

Annual arithmetic mean, ug/m<sup>3</sup> 65

24-hour maximum<sup>b</sup>, ug/m<sup>3</sup> 140

Settleable

Annual arithmetic average, mg/cm/<sup>2</sup>/month 0.35

Monthly maximum 0.7

(E) *Sulfur oxides*. Emission of oxides of sulfur (as sulfur dioxide) from combustion and other processes will be limited in accordance with ambient air quality standards of the state or those of the county, whichever are the more restrictive.

Ambient Air Quality Standard (LI and GI Districts)

Sulfur Oxides

Annual arithmetic mean, ug/m<sup>3</sup> 60

- (F) *Smoke*. For the purpose of grading the density or equivalent capacity of smoke, the Ringelmann Chart as published by the United States Bureau of Mines shall be used.
- (1) *LI District*. The emission of smoke darker than Ringelmann No. 1 from any chimney, stack, vent, opening, or combustion process is prohibited.
- (2) GI District. The emission of smoke darker than Ringelmann No. 1 from any chimney, stack, vent, opening, or combustion process is prohibited; however, smoke of a shade not to exceed Ringelmann No. 2 is permitted for up to 4 minutes total in any 1 hour period.
- (G) *Odor*. Odor thresholds shall be measured in accordance with ASTM d1391-57 "Standard Method for Measurement of Odor in Atmospheres (Dilution Method)" or its equivalent.
- (1) *LI District*. Odorous material released from any operation or activity shall not exceed the odor threshold concentration beyond the lot line, measured either at ground level or habitable elevation.
- (2) GI District. Odorous materials released from any operation or activity shall not exceed the odor threshold concentration at or beyond the district boundary line measured either at ground level or habitable elevation.

- (H) *Toxic matter*. The ambient air quality standards for the State of Maryland shall be the guide to the release of airborne toxic materials across lot lines. Where toxic materials are not listed in the ambient air quality standards of the state, the release of such materials shall be in accordance with the fractional quantities permitted below, of those toxic materials currently listed in the threshold limit values adopted by the American Conference of Governmental Industrial Hygienists. Unless otherwise stated, the measurement of toxic matter shall be at ground level or habitable elevation, and shall be the average of any 24 hours sampling period.
- (1) *LI District*. The release of airborne toxic matter will not exceed one-thirtieth of the threshold limit value across lot lines.
- (2) *GI District*. The release of airborne toxic matter shall not exceed one-thirtieth of the threshold limit value beyond the district boundary line.
- (I) Detonable materials.
- (1) Activities involving the storage, utilization or manufacture of products which decompose by detonation shall be in accordance with these new regulations.
- (2) Such materials shall include but are not limited to: all primary explosives such as lead azide, lead styphnate, fulminates and tetracene; all high explosives such as TNT, RDX, HMX, PETN, and picric acid; propellants and components thereof, such as dry nitrocellulose, black powder, boron hydrides, hydrazine and its derivatives; pyrotechnics and fireworks such as magnesium powder, potassium chlorate and potassium nitrate; blasting explosives such as dynamite and nitroglycerine; unstable organic compounds such as acetylides, tetrazoles and ozonides; unstable oxidizing agents such as perchloric acid, perchlorates, and hydrogen peroxide in concentration greater than 35%; and nuclear fuels, fissionable materials and products, and reactor elements such as Uranium 235 and Plutonium 239.
- (a) *LI District*. The storage, utilization or manufacture of materials or products which decompose by detonation is prohibited.
- (b) *GI District*. The manufacture of materials or products which decompose by detonation is limited to 5 pounds; however, such materials may be stored or utilized in any quantity.
- (J) Fire hazards. Solid materials susceptible to fire hazards shall be subject to the following.
- (1) *LI District*. The storage, utilization or manufacture of solid materials which are active to intense burning shall be conducted within spaces having fire resistive construction of no less than 2 hours and protected with an automatic fire extinguishing system.
- (2) GI District. The storage, utilization or manufacture of solid materials which are active to intense burning shall be conducted within walls having a fire resistance no less than 2 hours or protected by an automatic fire extinguishing system or the building shall be no less than 40 feet from all lot lines. The outdoor storage of such materials shall be permitted no closer than 50 feet from all lot lines.
- (3) Liquified petroleum gas (LP-gas) and flammable/combustible liquids within the LI and GI Districts shall adhere to the following standards:
- (a) The total storage capacity of LP-gas shall not exceed 1,000,000 gallons on any site.

- (b) The total storage capacity of flammable/combustible liquids shall not exceed 300,000 gallons.
- (c) On-site blending of fuels is not permitted.
- (d) The facility shall meet or exceed the requirements of:
- 1. The Frederick County Fire Prevention Code, as amended; and
- 2. The Following National Fire Protection Association (NFPA) Standards as adopted by reference, with local amendments, in the Frederick County Fire Prevention Code:
- (i) NFPA 58 (Standard for the Storage and Handling of Liquefied Petroleum Gases), as amended;
- (ii) NFPA Standard 30 (Flammable and Combustible Liquids Code), as amended;
- (iii) NFPA Standard 30A (Code for Motor Fuel Dispensing Facilities and Repair Garages), as amended.
- (e) A minimum lot area of 5 acres is required for a petroleum product storage facility with product storage capacity of 300,000 gallons or more.
- (4) Notwithstanding the above-listed capacities for flammable liquids and gases, an owner or operator shall be permitted to exceed such capacities provided that the Zoning Administrator determines that the excess storage capacity is for an emergency fuel supply only. For purposes of this section, the term *EMERGENCY FUEL SUPPLY* means any fuel that is stored on site for use solely in the event of a disruption in the normal fuel supply. In no event shall the total storage capacity for an emergency fuel supply approved pursuant to this subsection exceed that amount of fuel required to operate the subject facility for a maximum of 5 consecutive 24 hour periods. The facilities to hold an emergency fuel supply shall be designed, constructed, and operated in compliance with the Frederick County Fire Prevention Code, § 1-2-69.1 of the Frederick County Code and the National Safety Codes and standards applicable to the specific emergency fuel.

(Ord. 77-1-78, § 40-62(F), 1-24-1977; Ord. 77-10-87, 8-22-1977; Ord. 86-49-426, 9-23-1986; Ord. 97-20-198, 12-16-1997; Ord. 08-26-502, 10-14-2008; Ord. 10-01-536, 1-19-2010; Ord. 11-06-572, 5-17-2011; Ord. 11-25-591, 10-27-2011)

# **№ § 1-19-7.620. PERFORMANCE STANDARDS FOR THE OFFICE/RESEARCH INDUSTRIAL DISTRICT (ORI).**

- (A) In the ORI District, no outside storage of equipment, material or products will be permitted.
- (B) In the ORI District, all of the industrial performance standards not otherwise provided for in this section which pertain to the Limited Industrial (LI) Zone shall apply to the ORI Zone.
- (C) In the ORI District, the minimum landscaped open space on any individual lot shall not be less than 20% of the land area of the lot. The landscaped open space shall not be impervious or open for vehicular use and the landscaping shall be maintained in a reasonable manner.

(D) In the ORI district, building architectural renderings or plans shall be submitted to the Planning Commission to assure that the appearance, size, type of building material or other aspects of the building are consistent with the purposes and intent of the zone.

(Ord. 08-26-502, 10-14-2008; Ord. 10-26-561, 11-9-2010)

## ARTICLE VIII: SPECIFIC USE REGULATIONS

#### Section

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1-19-8.110 Major recreational equipment

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#### **DIVISION 1. GENERALLY**

**凤** § 1-19-8.100. PURPOSES.

This article establishes additional design requirements for certain uses or structures, with primary emphasis on uses requiring site plan approval or special exception approval.

(Ord. 77-1-78, § 40-70, 1-24-1977; Ord. 08-26-502, 10-14-2008)

## **■§ 1-19-8.110. MAJOR RECREATIONAL EQUIPMENT.**

No major recreational equipment will be used for living, sleeping, or other occupancy when parked or stored on a residential lot or in any other location not approved for such use.

(Ord. 77-1-78, § 40-49(A), 1-24-1977; Ord. 08-26-502, 10-14-2008)

#### Editor's note:

Ord. 90-32-630, adopted and effective June 19, 1990, repealed § 1-19-212, which section pertained to the parking or storage of vehicles and which was derived from Ord. 77-1-78, § 40-49(B), adopted Jan. 24, 1977.

#### **DIVISION 2. ACCESSORY USES**

## **■§ 1-19-8.200. PURPOSE AND INTENT.**

Although customary accessory uses are expected to develop in conjunction with a principal permitted use, the accessory uses listed in Division 2, Accessory Uses, will receive approval only when specific criteria have been met.

(Ord. 09-21-525, 6-4-2009)

# **■** § 1-19-8.205. ACCESSORY USES IN ALL ZONING DISTRICTS.

# **■** § 1-19-8.205.1. CUSTOMARY ACCESSORY USES.

The following customary accessory uses are permitted in all zoning districts: auction sales, yard sales and "kids fairs;" however, not more than 1 such event shall be held per lot per year.

(Ord. 81-23-213, 8-4-1981; Ord. 08-26-502, 10-14-2008; Ord. 09-21-525, 6-4-2009)

#### **№ 1-19-8.205.2. COMMUNICATIONS ANTENNA.**

A communications antenna not exceeding 10 feet above and attached to an existing building or structure or attached to a support pole inserted within an existing electrical transmission line lattice tower is permitted in any zoning district.

(Ord. 99-14-241, 11-23-1999; Ord. 08-26-502, 10-14-2008; Ord. 09-21-525, 6-4-2009; Ord. 10-17-552, 6-15-2010)

# **■§ 1-19-8.205.3. FARM TENANT HOUSES.**

Farm tenant houses are permitted as accessory structures on a farm as follows: 25 acres to 50 acres, 1 tenant house, thereafter 1 tenant house per 50 acres.

(Ord. 77-1-78, § 40-47(D), 1-24-1977; Ord. 08-26-502, 10-14-2008; Ord. 09-21-525, 6-4-2009)

## **■§ 1-19-8.205.4. SOLAR COLLECTION SYSTEM.**

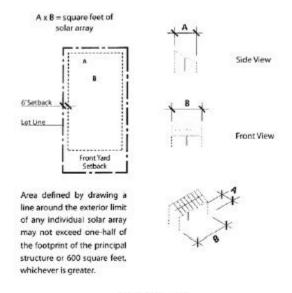
A solar collection system is permitted in any zoning district on the roof or exterior walls of structures.

(Ord. 09-11-515, 4-28-2009)

## **■**§ 1-19-8.205.5. SOLAR ARRAY.

The footprint of the solar array and any individual component shall be used in calculating the square footage by drawing a line around the exterior limits of an individual solar array. Solar arrays are permitted in any zoning district subject to the following setback and size restrictions:

- (A) The total square footage of the solar array(s) shall not exceed that of the principal structure;
- (B) The footprint of an individual solar array shall not exceed the greater of:
- (1) One-half of the footprint of the principal structure or
- (2) Six hundred square feet.



Solar Array

(Ord. 09-11-515, 4-28-2009)

# 

(A) Limited wind energy systems are permitted in any zoning district subject to the following standards except that limited wind energy systems under 10 feet in height and located on a principal or accessory structure are not subject to these provisions:

- (1) The limited wind energy system shall be used for the purpose of generating power for the property on which the limited wind energy system is located. Commercial sale of power is prohibited.
- (2) The limited wind energy system shall be set back a distance equal to its total height plus an additional 20 feet from:
- (a) Any right-of-way as designated by the County Comprehensive Plan;
- (b) Any right of ingress or egress on the owner's property;
- (c) Any overhead utility lines;
- (d) All property lines.
- (3) The limited wind energy system shall not be located within the required front yard setback.
- (4) All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
- (5) All electrical wires associated with a ground mounted wind energy system shall be located underground, except those wires necessary to connect the wind generator to the wind tower wiring, the wind tower wiring to the disconnect junction box, and the grounding wires.
- (6) A wind tower and generator shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration (FAA).
- (7) Wind energy systems shall be painted a non-reflective, non-obtrusive color such as the manufacturer's default color option or a color that conforms to the environment and architecture of the community in which it will be located. Wind energy towers shall maintain a galvanized steel, brushed aluminum or white finish, unless FAA standards require otherwise. The Zoning Administrator may require a photo of a wind energy system of the same model that is the subject of the application, adjacent to a building or some other object illustrating scale.
- (8) The blade tip or vane of any wind energy system shall, at its lowest point, have ground clearance of no less than 15 feet, as measured at the lowest point of the arc of the blades.
- (9) Wind energy systems shall comply with all applicable construction and electrical codes.
- (10) Wind energy systems that connect to an electric utility company shall comply with the Public Service Commission regulations.
- (11) Each property is eligible for 2 wind energy systems. Additional wind energy systems shall not exceed the total number needed to generate the amount of electricity for the established uses on the property unless the applicant can demonstrate the on- site need for additional power.
- (12) Abandonment.
- (a) The Zoning Administrator may issue a notice of abandonment to the owner of a wind energy system that is out of service for a continuous 6-month period. The owner shall have the right to respond in writing, within 30 days, to the notice of abandonment setting forth the reasons for operational difficulty and providing a reasonable timetable for corrective action. If sufficient

reason is provided, the Zoning Administrator shall withdraw the notice of abandonment and the owner of the wind energy system will be notified.

- (b) If the wind energy system is determined to be abandoned, the owner shall remove the wind energy system within 3 months of the date of the notice of abandonment, at the owner's expense. If the owner fails to remove the wind energy system, the Zoning Administrator may pursue legal action to have the wind energy system removed at the owner's expense.
- (13) All wind energy systems shall comply with the limitations contained in the noise ordinance of Frederick County (Frederick County Code § <u>1-11-6</u>).
- (B) It is unlawful for any person to construct, install, or operate a wind energy system that is not in compliance with this chapter or with any condition contained in a building permit issued pursuant to this chapter, or that is in violation of any state or federal regulation.

(Ord. 09-11-515, 4-28-2009)

# **♦ 1-19-8.205.7. COMMERCIAL VEHICLE PARKING AS AN ACCESSORY USE TO A FARM.**

The following provisions apply to commercial vehicle parking as an accessory use to a farm:

- (A) The subject property must meet the definition of a farm provided in § <u>1-19-11.100</u>.
- (B) Parking of commercial vehicles may include but is not limited to: school buses, tractor trailers, and contractor vehicles.
- (C) Parking under this section is limited to licensed commercial vehicles that are used in the furtherance of a commercial enterprise.
- (D) The maximum number of commercial vehicles permitted is 5.
- (E) A Minimum setback of 50 feet is required for all yards. Parking may not be located within the required setback area.

(Ord. 11-06-572, 5-17-2011)

# **■§ 1-19-8.210. ACCESSORY USES ON INSTITUTIONAL USE PROPERTY.**

Customary accessory uses permitted on institutional use properties include the following: activities, such as breakfast, lunches, dinners, bazaars, auctions, sales, game nights, carnivals, and similar activities. Institutional use properties are those listed in § 1-19-5.310 under the heading "Institutional," namely, civic community center, civic service clubs, day-care center, nursery school, group homes, hospital, nursing home, places of worship, private schools, camps and retreats, and fire and rescue service.

(Ord. 81-23-213, 8-4-1981; Ord. 08-26-502, 10-14-2008)

## 

The following provisions shall apply to gasoline storage tanks with a capacity between 270 gallons and 1,100 gallons as an accessory use on farm lots in the GC, LI and GI Districts.

- (A) The minimum lot size shall be 40,000 square feet.
- (B) The storage tank shall be placed aboveground with a capacity not to exceed 1,100 gallons.
- (C) The storage tank shall be located a minimum of 100 feet from a well or as provided in § <u>1-6-</u>50 (Wellhead Protection Ordinance), whichever is greater.
- (D) The storage tank must have a minimum setback of 25 feet from all property lines.
- (E) The storage tank shall be governed by the International Building Code 2006 as amended concerning storage tanks, and the National Fire Protection Association 30, as amended.
- (F) Storage tanks shall have 100% catchment basin, or double-walled containment and a spill protection overfill alarm.
- (G) Shall comply with § <u>1-6-50</u> Wellhead Protection Ordinance.

(Ord. 09-21-525, 6-4-2009; Ord. 11-25-591, 10-27-2011)

# § 1-19-8.212 LIMITED ACCESSORY APARTMENTS IN THE RC, A, R1, R3, R5, R8, R12, R16, VC, AND MX DISTRICTS.

The following provisions shall apply to limited accessory apartments in the RC, A, R1, R3, R5, R8, R12, R16, VC, and MX districts.

- (A) Only 1 limited accessory apartment may be created on a lot.
- (B) A limited accessory apartment shall be allowed only in single-family dwellings or in an accessory structure on a single-family lot.
- (C) The owner of the property must reside in the principal dwelling. If resident ownership ceases then the use of the limited accessory apartment shall cease.
- (D) There must be 2 additional off-street parking spaces provided for the limited accessory apartment.
- (E) If the limited accessory apartment is to be located in an accessory structure, the limited accessory apartment shall not exceed 800 square feet in size and must comply with setback requirements for principal structures. An accessory apartment greater than 800 square feet to be located in an accessory structure, shall be reviewed as a special exception (see also § 1-19-8.240 and § 1-19-8.321).
- (F) In the event a separate building entrance is utilized, it shall be to the side or rear of the structure, so as to maintain the appearance of a single-family residence.

- (G) The application for limited accessory apartment approval shall include the name and address of each person owning property adjacent to the subject property. The Zoning Administrator shall notify all adjacent property owners whether separated by streets, railroads, or other rights-of-way of the application for accessory apartment approval. The Zoning Administrator shall approve or deny the application for a limited accessory apartment not less than 30 days after notification of adjacent property owners.
- (H) The renting of rooms under § <u>1-19-8.240</u> will not be permitted in conjunction with a limited accessory apartment.
- (I) The owner shall file an annual report with the Zoning Administrator verifying that conditions remain the same under which the limited accessory apartment was granted.
- (J) If the ownership of the lot changes, the subsequent owner must reapply for approval.
- (K) If the Zoning Administrator determines that the limited accessory apartment is not in compliance with the above provisions as well as all safety, health, and environmental standards, approval may be revoked pursuant to § 1-19-2.210.

(Ord. 11-25-591, 10-27-2011; Ord. 11-28-594, 11-22-2011)

### **■§ 1-19-8.213. TEMPORARY MOBILE HOME.**

The Zoning Administrator may approve a request for a temporary mobile home in the RC, A, or R-1 districts where the following provisions are met:

- (A) The mobile home shall be occupied by an immediate member of the family owning and residing on the subject lot.
- (B) The occupant of either the mobile home or principal dwelling must have a physical or mental condition or excessive age which requires constant care and attention. The physical or mental condition or excessive age shall be certified by a physician licensed within the State of Maryland and submitted to the Zoning Administrator.
- (C) The lot must contain no less than 40,000 square feet of area in the RC and A districts and no less than 80,000 square feet of area in the R-1 district.
- (D) Only single-wide mobile homes will be permitted.
- (E) The mobile home shall:
- (1) Meet the setback requirements for the district;
- (2) Be located to the rear of the principal dwelling in the R-1 district;
- (3) Be placed so as to minimize the visual impact on the neighborhood; and
- (4) Be placed on the property only after a site plan has been approved by the Zoning Administrator.

- (F) The application for temporary mobile home approval shall include the name and address of each person owning property adjacent to the subject property. The Zoning Administrator shall notify all adjacent property owners whether separated by streets, railroads, or other rights-of-way of the application for temporary mobile home approval. The Zoning Administrator shall approve or deny the application for a temporary mobile home not less than 30 days after notification of adjacent property owners.
- (G) The renting of rooms under  $\S$  <u>1-19-8.240</u> will not be permitted in conjunction with a temporary mobile home.
- (H) The owner shall file an annual report with the Zoning Administrator verifying that conditions remain the same under which the temporary mobile home was granted.
- (I) If the Zoning Administrator determines that the temporary mobile home is not in compliance with the above provisions as well as all safety, health, and environmental standards, approval may be revoked pursuant to § 1-19-2.210.

(Ord. 11-25-591, 10-27-2011)

## **■§ 1-19-8.220. ACCESSORY USE OF A CREMATORY.**

- (A) Crematory operations are permitted as an accessory use to cemetery/memorial gardens or funeral home. Animal incinerator operations are permitted as an accessory use to cemetery/memorial garden in the A District.
- (B) Crematory and animal incinerator operations as an accessory use to a cemetery/memorial gardens requires a minimum lot size of 15 acres.
- (C) Crematory and animal incinerator operations as an accessory use to a cemetery/memorial gardens requires all yard setbacks be a minimum of 50 feet.
- (D) Crematory and animal incinerator operations must comply with all state and federal regulations including all licensing requirements.

(Ord. 07-34-474, 11-6-2007; Ord. 08-26-502, 10-14-2008; Ord. 09-21-525, 6-4-2009)

# § 1-19-8.230. ACCESSORY USES IN THE AGRICULTURAL OR RESOURCE CONSERVATION DISTRICTS.

# § 1-19-8.230.1. LIMITED FUNERAL ESTABLISHMENT ACCESSORY TO A SINGLE-FAMILY DETACHED DWELLING IN THE RC ZONING DISTRICT.

- (A) The proposed use must meet the definition of limited funeral establishment as provided in § 1-19-11.100.
- (B) The limited funeral establishment includes activities associated with the practice of mortuary science but shall not include the practice of funeral direction as defined by the Md. Code Ann., Health Occupations Article, Title 7, Maryland Morticians and Funeral Directors Act.
- (C) The limited funeral establishment shall not include activities associated with cemetery/memorial garden, crematory, stone monument sales, or funeral home.

- (D) The limited funeral establishment shall be conducted on a minimum of 5 acres.
- (E) Minimum setbacks and height are as required in § <u>1-19-6.100</u> for a single-family detached residential use in the RC Zoning District.
- (F) No retail sales or service other than the practice of mortuary science shall be conducted on the site.
- (G) The business must be conducted by a full-time resident of the property.
- (H) One nonresident employee (full-time or part-time) is permitted to work on the premises.
- (I) There shall be no exterior evidence other than the sign as required by Title 10 Subtitle 29 Chapter 3, Section 3, Code of Maryland Regulations license requirements for funeral establishments to indicate the building is being used for any purpose other than that of a dwelling or an accessory structure.
- (J) The operation shall not cause any odor, dust, smoke, vibration, or noise that can be detected at or beyond the property line.
- (K) There shall be no outside storage of equipment, material or stock.

(Ord. 12-08-603, 4-17-2012)

## § 1-19-8.230.2. CEMETERY/MEMORIAL GARDEN ACCESSORY TO A PLACE OF WORSHIP IN THE RC DISTRICT.

The following provisions shall apply to a cemetery/memorial garden accessory to a place of worship in the RC District.

- (A) A cemetery/memorial garden shall not be located within the FEMA floodplain, flooding soils, or wet soils.
- (B) Minimum lot area, lot width, yard setbacks, and height requirements are the same as required for open space uses in § 1-19-6.100.
- (C) The subject property shall have frontage and access on a paved public road.
- (D) The requirements of § 1-19-7.200 of this Code shall be met.

(Ord. 09-21-525, 6-4-2009)

## **№ § 1-19-8.230.3 CHILD CARE CENTER/ NURSERY SCHOOL ACCESSORY TO A PLACE OF WORSHIP IN THE A AND RC ZONING DISTRICTS.**

The following provisions shall apply to a child care center/nursery school as an accessory use to a place of worship in the A and RC zoning districts:

- (A) A child care center/nursery school shall be an accessory use within a building utilized for a place of worship.
- (B) The child care center/nursery school shall not utilize more than 20% of the building floor area on the particular lot on which such child care center is located.

- (C) The minimum size of a child care center/nursery school shall be determined per child as required under Maryland law.
- (D) All recreation and open space shall be provided in accordance with state law for outdoor activity area. Play areas provided must be fully fenced.
- (E) The child care center/nursery school shall be operated not for profit.

(Ord. 10-04-539, 3-11-2010)

# § 1-19-8.230.4. FUNERAL HOME ACCESSORY TO A CEMETERY/MEMORIAL GARDEN IN THE A DISTRICT.

The following provisions shall apply to a funeral home as an accessory use to a cemetery/memorial garden in the A District:

- (A) A funeral home as an accessory use to a cemetery/memorial garden shall only be allowed where the cemetery/memorial garden lot size is not less than 25 acres; and
- (B) The cemetery/memorial garden shall have frontage on and direct access to a roadway with at least a collector status, as designated on the County Comprehensive Plan.

(Ord. 13-25-653, 10-31-2013)

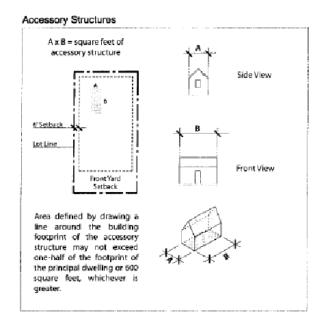
### § 1-19-8.240. ACCESSORY USES ON RESIDENTIAL PROPERTIES.

- (A) Customary accessory uses permitted on residential properties include the following.
- (1) Accommodations for bona fide servants or guests, including unattached guest houses.
- (2) (a) Keeping of not more than 9 domestic animals; however, a commercial stable or kennel is not an accessory use. Farm parcels are exempt from this limitation.
- (b) Keeping of farm animals in residential districts on a lot containing 3 acres or more provided no pens, stalls or runs will be located closer than 50 feet of any lot line, unless approved as a limited agricultural activity as provided in § 1-19-5.310 and § 1-19-8.325.
- (3) Recreation facilities, such as swimming pools or tennis courts, located on residential lots, if the use of the facilities is restricted to occupants of the principal use and guests for whom no admission or membership fees are charged, or such facilities occur on a lot adjoining the principal use and both uses are under the same ownership.
- (4) Domestic or agricultural storage in a barn, shed, tool shed, or similar building or other structure.
- (5) Home occupations.
- (a) General home occupation standards. All home occupations shall comply with the following conditions.
- 1. There will be no exterior evidence, other than a permitted sign, to indicate that the building is being used for any purpose other than that of a dwelling or an accessory structure.

- 2. No retail sales or services, other than goods grown, produced or assembled on the premises, shall be conducted on the premises; however, retail sales of products not produced on the premises are permitted when these sales are only incidental to and part of the primary function of the business. As a home occupation, antique shops in the A and RC Zoning Districts shall be permitted to conduct retail sales in accordance with the remaining requirements set forth in this chapter.
- 3. Additional off-street parking will be provided in accordance with the requirements set forth by use in § <u>1-19-6.220</u>. If there is a question as to the use and corresponding parking, the Zoning Administrator shall make the determination.
- 4. The home occupation shall not cause any odor, dust, smoke, vibration, noise, or electromagnetic interference which can be detected at or beyond the property line.
- 5. There will be no outdoor storage of equipment, material, or stock.
- 6. There will be no storage on the premises of explosives or highly flammable or extremely hazardous materials as defined by the U.S. Environmental Protection Agency.
- 7. The business must be conducted by a full-time resident of the property.
- 8. Home occupations located on properties utilizing a common drive shall be required to give notice of home occupation use to adjoining property owners by registered or certified mail.
- 9. Any interior structural alterations to accommodate the home occupation will require the issuance of a building permit.
- (b) *Home occupation with "no impact."* Home occupations with "no impact" are a permitted accessory use upon completion of home occupation survey form in the [Planning and Zoning Office] DEPARTMENT OF PLANNING AND DEVELOPMENT REVIEW. Home occupation owners must comply with the general home occupation standards and the following conditions.
- 1. No more than 5 business- related vehicle visits per week at the premises, excluding delivery vehicles, are permitted when the business is located on a local roadway as specified in the Comprehensive Plan. When located on a collector roadway, no more than 5 business-related vehicle visits per day at the premises, or no more than 20 per week, whichever is greater, excluding delivery vehicles, are permitted. There will be no limit on the number of business-related vehicle visits to a residence when located on an arterial roadway. Deliveries are only permitted by public or private delivery services that customarily make residential deliveries.
- 2. No nonresident employees (full-time or part-time) are permitted to work on the premises.
- 3. No more than 600 square feet of an accessory structure may be used for business purposes. There is no limit to the amount of square footage which can be utilized within the principal structure, provided the home occupation remains incidental to the residential use. For parcels of 10 acres or greater in size, the size of accessory structures to be used may be enlarged by special exception after giving due consideration to setbacks, size and location of structure and its impact on the adjoining properties.

- 4. More than 1 home occupation with no impact may be conducted on the premises; however, the combined business-related impact of the home occupations shall not exceed the limits established in items (b)1.-3. above.
- 5. "No impact" home occupations may be permitted in all types of residential structures.
- (c) *Home occupation with "minor impact."* Home occupations with minor impact must obtain a zoning certificate through the DEPARTMENT OF Permits and Inspections [Office]. Home occupation owners must comply with the general home occupation standards in subsection (5)(a) and the following conditions.
- 1. No more than 2 business- related vehicle visits per day nor more than 10 visits per week at the premises, excluding delivery vehicles, are permitted when the business is located on a local roadway as specified on the Comprehensive Plan. When located on a collector roadway, no more than 5 business-related vehicle visits per day at the premises, or no more than 20 per week, whichever is greater, excluding delivery vehicles, are permitted. There will be no limit on the number of business-related vehicle visits to a residence when located on an arterial roadway. Deliveries are only permitted by public or private delivery services that customarily make residential deliveries.
- 2. No more than one nonresident employee (full-time or part-time) is permitted to work on the premises.
- 3. In residential and conservation zoned parcels, no more than 600 square feet of an accessory structure may be used for home occupation purposes. This square footage may increase to 1,200 square feet in the agricultural zone and on lots over 5 acres in the Resource Conservation (RC) Zone. There is no limit to the amount of square footage which can be utilized within the principal structure, provided the home occupation remains incidental to the residential use. For parcels of 10 acres or greater in size, the size of accessory structures to be used may be enlarged by special exception after giving due consideration to setbacks, size and location of structure and impact on the adjoining properties.
- 4. More than 1 home occupation with minor impact may be carried out on the premises; however, the combined business-related impact of the home occupations shall not exceed the limits established in items (C)1.-3. above.
- 5. Home occupations with minor impact shall be permitted within townhouse, condominium, multiplex or apartment dwellings except that vehicle visits shall be limited to the hours between 7:00 a.m. and 6:00 p.m.
- (6) Professional offices which:
- (a) Are located in the same building as the domicile of the professional practitioner or in an accessory structure existing as of March 28, 1997; and
- (b) Do not employ more than 2 assistants; and
- (c) Do not substantially change the character or appearance of the dwelling or accessory structure.
- (7) The rental of rooms to no more than 2 persons by a resident family.

- (8) Radio or television antenna.
- (9) The parking of no more than 2 school buses driven by resident(s).
- (B) An accessory structure shall be limited in size when located on a residentially zoned property to the following:
- (1) The total square footage of all floors of the accessory structure shall not exceed that of the dwelling;
- (2) Except as provided in subsection (B)(3) below, the footprint of an accessory structure may not exceed the greater of:
- (a) One-half of the footprint of the principal dwelling; or
- (b) Six hundred square feet.
- (3) One (1) accessory structure located on a Residential-1 (R-1) zoned property may exceed the footprint limits of subsection (B)(2) above, provided that the footprint of that accessory structure does not exceed 2000 square feet, and provided that the lot size equals or exceeds 20,000 square feet.
- (4) The square footage allowed for business purposes in an accessory structure shall be 600 square feet.
- (5) Accessory structures shall not exceed 70% of the maximum height allowed for the principal permitted use, except as otherwise provided within this chapter.



(Ord. 77-1-78, § 40-47(C), 1-24-1977; Ord. 79-19-145, 8-7-1979; Ord. 80-24-176, 8-26-1980; Ord. 92-19-054, 8-18-1992; Ord. 94-28-123, 12-8-1994; Ord. 95-28-152, 12-5-1995; Ord. 97-05-183, 3-18-1997; Ord. 98-02-204, 2-3-1998; Ord. 08-26-502, 10-14-2008; Ord. 09-21-525, 6-4-2009; Ord. 12-08-603, 4-17-2012; Ord. 14-05-660, 5-22-2014)

# § 1-19-8.250. ACCESSORY USES IN COMMERCIAL AND INDUSTRIAL DISTRICTS.

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Customary accessory uses are permitted in Commercial or Industrial Districts, including the following.

- (A) Vending machines.
- (B) The storage of goods normally carried in stock, used in, or produced by commercial or industrial uses, unless the storage of particular goods is prohibited under the district regulations.
- (C) Incidental repair facilities, unless expressly prohibited under applicable district regulations.
- (D) Limited retail sales may be permitted for any manufacturing plant or warehouse in the Limited Industrial and General Industrial Districts, provided that the products sold are:
- (1) Manufactured on the site;
- (2) Parts or accessories to products manufactured on the site or elsewhere; or
- (3) Stored or distributed either by the owner or lessee of the site.
- (E) It is further provided that not more than 25% of the floor area of the first floor of the main building, which is used for the manufacturing, storage or distribution of products, may be used for the retail sales of articles made, stored or distributed on the premises.
- (1) Service facilities are limited to repair and/or service of products manufactured, stored, or distributed by the owner or lessee of the site.
- (2) Nothing herein contained shall be construed to permit the operation of general retail sales business other than provided in this subsection.
- (3) Off-street parking for limited accessory retail uses must comply with the requirements of § <u>1-19-6.220</u>.
- (F) Guardhouses, provided that:
- (1) It is determined through the site plan approval process that the guardhouse will provide controlled vehicular and/or pedestrian access to the site and that controlled access to the site is necessary and appropriate for security purposes in connection with and in consideration of the nature of the primary use on the site;
- (2) Notwithstanding any other provisions relating to accessory structures, the guardhouse may be located anywhere on a lot, including a panhandle, provided that a 6-foot setback is maintained from any lot line;
- (3) The guardhouse shall be situated in a location with adequate setbacks so as to minimize conflict with off-site traffic, existing or proposed driveways, septic fields and utilities, and shall accommodate other existing site features, rights-of- way, easements, and/or other uses; and

(4) In addition to the site plan requirements of §§ <u>1-19-3.300</u> and <u>1-19-3.300.4</u>, the site plan shall include architectural drawings, show necessary utility connections and water and sewer infrastructure and easements, indicate the effect of the controlled access on the vehicular flow into the site and measures that will be taken to mitigate the interference of vehicles stacking with off-site traffic.

(Ord. 77-1-78, § 40-47(E), 1-24-1977; Ord. 84-21-318, 8-21-1984; Ord. 06-24-420, 6-20-2006; Ord. 08-26-502, 10-14-2008; Ord. 09-22-526, 7-14-2009)

**№** 1-19-8.250.2. RESERVED.

## **■§ 1-19-8.250.3. CHILD CARE CENTERS IN THE ORI DISTRICT.**

In the ORI zoning district, a child care center shall be a secondary use within a building utilized for a permitted use and the child care center shall not utilize more than 10% of the building floor area on the particular lot on which such child care center is located. The minimum size of a child care center shall be determined based on the amount of square footage required under the State

of Maryland Code of Regulations 10.05.01. All recreational and open space shall be in accordance with state regulations. Play areas provided must be fully fenced.

(Ord. 89-51-582, 8-15-1989; Ord. 08-26-502, 10-14-2008)

#### **DIVISION 3. SPECIAL EXCEPTION USES**

# § 1-19-8.300. TEMPORARY STRUCTURES AND USES REQUIRING SPECIAL EXCEPTION APPROVAL.

Temporary special exceptions may be granted by the Board of Zoning Appeals for the uses indicated by the letter "T" in § 1-19-5.310 for each district. A temporary special exception permit is valid for no longer than 1 year from date of issuance. Such temporary special exceptions may be renewed upon approval of the Board. The applicant shall provide the names and addresses of all adjoining property owners who shall be notified of any renewal. If the temporary use shall exist for 5 years, the Board of Zoning Appeals shall hold a hearing prior to the issuance of the subsequent renewal.

(Ord. 77-1-78, § 40-49(C), 1-24-1977; Ord. 79-19-145, 8-7-1979; Ord. 79-21-47, 9-5-1979; Ord. 81-28-218, 9-29-1981; Ord. 86-54-431, 10-28-1986; Ord. 91-02-002, 3-22-1991; Ord. 97-03-181, 1-21-1997; Ord. 08-26-502, 10-14-2008; Ord. 09-22-526, 7-14-2009; Ord. 11-25-591, 10-27-2011)

**■**§ 1-19-8.310. RESERVED.

## **■§ 1-19-8.320. GENERALLY.**

General conditions for granting a special exception are outlined in § 1-19-3.210 of this Code, and specific requirements for different uses are established in this article. The following are specific conditions which will be met for each special exception. In addition, site development plan approval shall be obtained through the applicable review process as provided in §§ 1-19-3.300

through <u>1-19-3.300.4</u> or as determined by the Zoning Administrator. The following standards apply only to special exceptions.

(Ord. 77-1-78, § 40-72(A), 1-24-1977; Ord. 90-03-601, 2-6-1990; Ord. 08-26-502, 10-14-2008; Ord. 12-08-603, 4-17-2012)

# **▶** \$ 1-19-8.321. ACCESSORY APARTMENTS GREATER THAN 800 SQUARE FEET TO BE LOCATED IN AN ACCESSORY STRUCTURE.

The following provisions shall apply to all accessory apartments greater than 800 square feet to be located in an accessory structure in the RC, A, R1, R3, R5, R8, R12, R16, VC, and MX districts.

- (A) Only 1 accessory apartment may be created on a lot.
- (B) Accessory apartments shall be allowed only in single-family dwellings or in an accessory structure on a single-family lot.
- (C) The owner of the property must reside in the principal dwelling. If resident ownership ceases then the use of the accessory apartment shall cease.
- (D) There must be 2 additional off-street parking spaces provided for the accessory apartment.
- (E) The maximum size of an accessory structure in which an accessory apartment may be located shall comply with § 1-19-8.240.
- (F) In the event a separate building entrance is utilized, it shall be to the side or rear of the structure, so as to maintain the appearance of a single-family residence.
- (G) The renting of rooms under § <u>1-19-8.240</u> will not be permitted in conjunction with accessory apartments.
- (H) The owner shall file an annual report with the Zoning Administrator verifying that conditions under which the special exception was granted remain the same.
- (I) If the ownership of the lot changes, the subsequent owner must reapply for approval.
- (J) Due to the nature of this use, site plan approval can be granted by the Zoning Administrator in lieu of the Planning Commission.
- (K) An accessory apartment meeting the provisions of § <u>1-19-8.212</u> shall be considered a permitted accessory use and therefore not subject to this section.

(Ord. 91-33-033, 12-3-1991; Ord. 08-26-502, 10-14-2008; Ord. 11-25-591, 10-27-2011; Ord. 11-28-594, 11-22-2011)

# § 1-19-8.322.1. PRIVATE AIRCRAFT LANDING AND STORAGE AREAS IN A, LI AND GI DISTRICTS.

The following provisions shall apply to private aircraft landing and storage areas in A, LI and GI Districts.

- (A) Minimum lot size: 25 acres.
- (B) Principal user: owner of parcel.
- (C) Intensity of use: no more than 2 aircraft may use the airfield or storage area.
- (D) Aircraft: limited to those which at 95°F require a maximum of 1,800 feet or less of runway surface as recommended by the specific aircraft manufacturers.
- (E) Clear zone: must be provided at both approach and departure end of runway. Such zone shall be a symmetrical trapezoid with a length of 1,000 feet and with the parallel sides being 176 feet (adjacent to end of runway) and 317 feet respectively. Such zone shall be provided as specified herein unless modified in accordance with Maryland Aviation Administration Guidelines and approved by the Zoning Administrator. No structures are permitted within the clear zone. The clear zone must be under the ownership of the airfield owner.
- (F) Area of operation: no operation will be permitted within 100 feet of a property line, or 1,000 feet of any public or private institution devoted to education or human care.
- (G) Use limited: the airfield will not be for the use of instruction or training.
- (H) The facility, activities, and aircraft operators shall meet all applicable federal and state regulations and licensing requirements.

(Ord. 77-1-78, § 40-72(A-5), 1-24-1977; Ord. 13-25-653, 10-31-2013)

## **№** § 1-19-8.322.2. PRIVATE-COMMERCIAL USE AIRCRAFT LANDING AND STORAGE AREAS IN A, LI AND GI DISTRICTS.

The following provisions shall apply to private-commercial use aircraft landing and storage areas in A. LI and GI Districts.

- (A) Minimum lot size: 100 acres.
- (B) Principal user: owner of parcel.
- (C) In the Agricultural Zoning District the owner of the property must reside in the principal dwelling.
- (D) Intensity of use: no more than 12 aircraft may use the airfield or storage area. The Board of Appeals may reduce the maximum number of aircraft, to a number less than 12, in an effort to minimize adverse effects of the operation on surrounding properties.
- (E) Aircraft: limited to those which at 95°F require a maximum of 1,800 feet or less of runway surface as recommended by the specific aircraft manufacturers.
- (F) Clear zone: must be provided at both approach and departure end of runway. Such zone shall be a symmetrical trapezoid with a length of 1,000 feet and with the parallel sides being 176 feet (adjacent to end of runway) and 317 feet respectively. Such zone shall be provided as specified herein unless modified in accordance with Maryland Aviation Administration Guidelines and approved by the Zoning Administrator. No structures are permitted within the clear zone. The clear zone must be under the ownership of the airfield owner.

- (G) Area of operation:
- (1) No operation will be permitted within 100 feet of a property line, or 1,000 feet of any public or private institution devoted to education or human care.
- (2) Hangars constructed after November 10, 2013 shall be located at least 200 feet from any property line adjacent to a residential use or residentially zoned property.
- (H) Use limited:
- (1) The airfield will not be for the use of instruction or training.
- (2) Commercial business operations open to the general public such as sale or leasing of aircraft, maintenance operations, chartering, or skydiving are prohibited.
- (I) The facility, activities, and aircraft operators shall meet all applicable federal and state regulations and licensing requirements.
- (J) Operation or storage of jet fixed wing aircraft at this facility is prohibited.

(Ord. 13-25-653, 10-31-2013)

#### ■ § 1-19-8.323. CHILD CARE CENTER/ NURSERY SCHOOL IN THE A DISTRICT.

The following provisions shall apply to a child care center/nursery school in the A District:

- (A) The child care center/nursery school shall be operated not for profit within buildings or structures on premises which are owned or leased by an existing, or with final site development plan approval, permitted institutional use and which premises are regularly used by the institutional use, or are located on premises owned or leased by an institutional use adjacent to premises regularly used by the institutional use. Institutional use for the purposes of this section shall be limited to the uses as provided in § 1-19-5.310 Use Table.
- (B) The minimum size of a child care center/ nursery school shall be determined based on the amount of square footage required under Maryland law.
- (C) All recreation and open space shall be provided in accordance with state law for outdoor activity area. Play areas provided must be fully fenced.
- (D) The minimum lot area, lot width, and setback requirements shall be as provided in § <u>1-19-6.100</u> for an institutional use, in the Agricultural Zoning District.
- (E) The maximum number of children in attendance at any one time shall be established by the Board of Appeals based on the following:
- (1) A maximum of one pupil per 1,000 square feet of lot area.
- (F) The maximum building floor area devoted to the child care center/nursery school shall be established by the Board of Appeals.
- (G) The subject property shall have frontage and access on a paved public road.

(H) A child care center/nursery school meeting the provisions within § <u>1-19-8.230.3</u> shall be considered a permitted accessory use and therefore not subject to this section.

(Ord. 10-04-539, 3-11-2010)

#### ■ § 1-19-8.324. AUTO REPAIR BODY AND FENDER SHOPS IN VC DISTRICTS.

The following provisions shall apply to auto repair body and fender shop in VC Districts.

- (A) The minimum lot area, lot width, yard setbacks and height, shall be as provided for in the table in § 1-19-6.100.
- (B) No outdoor work or outdoor storage is permitted.
- (C) Parking requirements are as established in §§ <u>1-19-6.200</u> through <u>1-19-6.240</u> of this Code.
- (D) Petroleum, flammable liquid, or hazardous substance storage tanks shall have 100% catchment basin, or double-walled containment and a spill protection overfill alarm. This does not apply to propane or natural gas tanks.
- (E) Shall comply with § <u>1-6-50</u> Wellhead Protection Ordinance at site plan approval.

(Ord. 77-1-78, § 40-72(A-8), 1-24-1977; Ord. 07-16-456, 5-15-2007; Ord. 07-27-467, 6-19-2007; Ord. 08-26-502, 10-14-2008)

## § 1-19-8.325. LIMITED AGRICULTURAL ACTIVITY IN THE RESIDENTIAL DISTRICTS.

A limited agricultural activity shall be permitted in the residential districts where the following provisions are met:

- (A) The keeping of farm animals in conjunction with a single family residence, on lots less than 3 acres, shall be permitted in residential districts provided that no pens, stalls, or runs will be located closer than 50 feet of any lot line (see also § 1-19-8.240).
- (B) All criteria in § 1-19-3.210 and all other provisions of this chapter shall be met.
- (C) The limited agricultural activity shall not cause any odor, dust, smoke, vibration or unreasonable noise which can be detected at or beyond the property line.

(Ord. 12-08-603, 4-17-2012)

#### **■§ 1-19-8.326. BED AND BREAKFAST IN THE RESIDENTIAL ZONING DISTRICTS.**

The following provisions shall apply to bed and breakfasts in the residential zoning districts.

- (A) The maximum stay for guests shall not exceed 30 days during a period of 6 months and no 1 visit shall exceed more than 14 consecutive days.
- (B) Meal service shall be limited to overnight guests only.
- (C) There shall be no separate kitchen or cooking facilities in any guestroom.

- (D) The use of amenities, such as a swimming pool, shall be restricted to use by guests of the establishment.
- (E) Minimum lot size and setbacks shall be as provided in  $\S 1-19-6.100$  for a single family dwelling in the district where the use is allowed.
- (F) Parking shall not be located within required setback areas.

(Ord. 12-08-603, 4-17-2012)

# § 1-19-8.327. RUSTIC RETREAT/CAMP/OUTDOOR CLUB IN RC AND A DISTRICTS.

The following provisions shall apply to rustic retreat/camp/outdoor club in RC and A Districts.

- (A) A minimum 10 acre lot size is required.
- (B) Rustic retreat/camp/outdoor club with a planned capacity of 100 persons or more must have a minimum of 50 feet of frontage with access on a public road having a minimum pavement width of 20 feet to the nearest paved road. If the planned capacity is under 100 persons, there will be no specific road requirements other than the provisions contained in § 1-19-3.210(B)(5).
- (C) The project will be designed so that an overall density of 3 persons per acre is not exceeded.
- (D) Total impervious surface area for buildings and parking shall be limited to 4,000 square feet for every 1 acre of lot area up to a maximum of:
- (1) 3 acres for lots of 100 acres or less; or
- (2) 4 acres for lots between 101 and 250 acres; or
- (3) 5 acres for lots of 251 acres or larger.
- (E) The requirements for all yards is 50 feet.
- (F) One freestanding on-premises identification sign no more than 25 square feet in area and subject to a minimum setback of 15 feet is permitted.
- (G) Parking shall be limited to that number required by zoning ordinance and co-located adjacent to the access drive. An increase in the number of parking spaces may be granted by the Planning Commission where the applicant can demonstrate need based on characteristics of the proposed use, hourly parking demand studies published by the Institute of Transportation Engineers (ITE), or other documentation as approved by the Planning Commission. Parking approved beyond that number required by zoning ordinance shall be constructed of pervious materials.
- (H) Permanent residential occupancy shall be limited to the resident owner, manager, or caretaker.
- (I) Caretaker residence(s) is permitted as an accessory use to a rustic retreat/camp/outdoor club where a specific plan is presented and approved by the Board of Appeals.
- (J) Within the RC District:

- (1) The requirements of § 1-19-7.200 of this Code will be met.
- (K) Insofar as practical at the time of site development plan review, the landscape shall be preserved in its natural state by:
- (1) Minimizing tree and soil removal or disturbance;
- (2) Retaining existing tree lines, forest buffers, and rock formations reducing visual impacts of development on surrounding properties and rights-of-way;
- (3) Siting buildings to protect and enhance the visual relationship between buildings and the natural terrain;
- (4) Reducing visual prominence of proposed structures by building adjacent to woodland edges and not in the center of open space areas on a proposed site;
- (5) Avoiding building on ridge lines, unless alternative site locations are unavailable and existing forest buffers can be retained to reduce visual impacts;
- (6) Opening up views only through selective tree and limb removal rather than clear cutting.

(Ord. 77-1-78, § 40-72(A-11), 1-24-1977; Ord. 82-19-263, 9-7-1982; Ord. 95-02-126, 3-2-1995; Ord. 08-26-502, 10-14-2008; Ord. 09-21-525, 6-4-2009)

**№** \$ 1-19-8.328. RESERVED.

# § 1-19-8.329. CHILD CARE CENTERS OR NURSERY SCHOOLS IN R-1, R-3, R-5, R-8, AND LI DISTRICTS.

The following provisions shall apply to child care centers or nursery schools in R-1, R-3, R-5, R-8, and LI Districts.

- (A) Child care centers or nursery schools which are operated by a nonprofit organization in buildings or structures on premises which are owned or leased by a religious organization and which premises are regularly used as a place of worship, or are located on premises owned or leased by a religious organization adjacent to premises regularly used as a place of worship, or are used for private parochial educational purposes, are a permitted use not requiring grant of special exception approval.
- (B) Special exception child care center or nursery school requires a minimum lot area of 12,000 square feet with minimum lot width of 100 feet except in the LI District which requires a minimum lot area of 20,000 square feet with a minimum lot width of 200 feet.
- (C) Yard setback requirement is 25 feet from all property lines except in the LI District which requires a yard setback requirement of 40 feet.
- (D) The maximum attendance at a child care center or nursery school at any 1 time shall be as follows:
- (1) One pupil per 1,000 square feet of lot area in R-1, R-3 residential zoning;
- (2) One pupil per 500 square feet of lot area in R-5, R-8 residential zoning;

- (3) The minimum size of a child care center or nursery school in the LI District shall be determined based on the amount of square footage required under the State of Maryland Code of Regulations 10.05.01.
- (E) All recreational and open space shall be in accordance with state regulations. Play areas provided must be fully fenced.
- (F) The subject property must have frontage and access on a paved public road.
- (G) In the LI District, the maximum allowable height for a child care center shall be 30 feet.

(Ord. 77-1-78, § 40-72(A-12), 1-24-1977; Ord. 82-19-263, 9-7-1982; Ord. 89-51-582, 8-15-1989; Ord. 95-02-126, 3-2-1995; Ord. 08-26-502, 10-14-2008; Ord. 09-21-525, 6-4-2009)

### **■§ 1-19-8.330. CHIP AND PUTT GOLF COURSE.**

The following provisions shall apply to chip and putt golf courses.

- (A) The minimum lot size shall be 5 acres.
- (B) A minimum setback of 50 feet shall be established from all property lines. However, the Board of Appeals may increase the setbacks or require additional screening or buffering where deemed appropriate due to the adverse impact on adjacent zoning or uses.
- (C) The lot must have road frontage on a minimum 20-foot-wide paved public road, and the Board of Appeals must determine that the road system is adequate to serve the site for the intended use.
- (D) Off-street parking shall be provided at the rate of 2 spaces for each hole plus 1 space for each employee.
- (E) Only security lighting will be permitted on-site.
- (F) Signage will be determined in accordance with § 1-19-6.320 (G) of this Code.
- (G) Reasonable hours of operation will be determined by the Board of Appeals as part of its approval process.

(Ord. 92-22-057, 10-6-1992; Ord. 08-26-502, 10-14-2008)

## **■§ 1-19-8.331. LANDSCAPE CONTRACTOR IN THE A DISTRICT.**

The following provisions shall apply to landscape contractors in the A District.

- (A) A combined total of no more than 10,000 square feet of principal and accessory structures shall be permitted. When a landscape contractor use operates in conjunction with a retail or wholesale nursery use, all square footage provisions are calculated separately.
- (B) Total impervious surface area for parking and storage of equipment exterior to any structures shall be limited to 40,000 square feet. When a landscape contractor use operates in conjunction with a retail or wholesale nursery use, all square footage provisions are calculated separately.
- (C) Lot size, setback and height requirements are the same as other natural resource uses.

- (D) The parking requirements of §§ <u>1-19-6.200</u> through <u>1-19-6.230</u> of this Code will be met; however, no parking area is permitted within the required yard setback.
- (E) Any proposed exterior lighting will be reviewed and approved by the Board of Appeals. Such lighting will not cause glare onto adjacent properties.
- (F) One freestanding sign no more than:
- (1) Fifteen feet in height;
- (2) Twenty-five square feet in area per face;
- (3) Fifty square-feet total face area is permitted, subject to the normal setback requirement for natural resource uses.
- (G) The subject property must have frontage and access on a paved public road, with a minimum pavement width of 20 feet and have access to at least a collector roadway as designated on the County Comprehensive Plan which shall be built to said classification requirements or shall be within ½ mile of at least an arterial designated roadway.
- (H) Petroleum, flammable liquid, or hazardous substance storage tanks shall have 100% catchment basin, or double-walled containment and a spill protection overfill alarm. This does not apply to propane or natural gas tanks.
- (I) Shall comply with § <u>1-6-50</u> Wellhead Protection Ordinance at site plan approval.
- (J) All equipment and materials shall be screened from adjacent properties and public roads with plantings of evergreens, at least 5 feet in height, or a fence of equal height.
- (K) A vehicle circulation plan shall be submitted indicating adequate turn radius is provided both to and from the subject property as well as for vehicle movement within the site for all proposed vehicle and equipment being used.

(Ord. 77-1-78, § 40-72(A-1), 1-24-1977; Ord. 82-19-263, 9-7-1982; Ord. 95-02-126, 3-2-1995; Ord. 07-16-456, 5-15-2007; Ord. 08-26-502, 10-14-2008; Ord. 09-21-525, 6-4-2009)

## **■§ 1-19-8.332. COMMUNICATION TOWERS IN RC AND A DISTRICTS.**

The following provisions shall apply to communication towers in RC and A Districts.

- (A) The tower height may exceed the maximum height permitted within the RC and A Districts after a determination by the approving body that its visual profile and appearance would make no substantial change in the character of the area, provided, however, that in no event shall the maximum allowed tower height exceed 199 feet.
- (B) All applications for a special exception shall include:
- (1) Computer modeling information used in selecting the site;
- (2) Listing of alternative sites considered and why not selected;
- (3) Photographs of the existing conditions of the site and area;

- (4) Photo documentation that a balloon test has taken place at the proposed site location.
- (C) All applications for a tower shall be accompanied by a non-binding 5 year plan of the applicant or the locating provider, showing the existing and proposed communications network within the county.
- (D) A NEPA (National Environmental Policy Act) checklist prepared in accordance with section 106 of NEPA shall be provided as part of all applications.
- (E) The applicant must publicize the proposal, using a block advertisement of a size acceptable to staff, which includes a map showing the site and a 1 mile radius and must hold an informational meeting in the area of the tower within 2 weeks after submitting the application. Written notice of such meeting shall be provided to all abutting property owners of the property on which the site is located and any homeowners/community associations within the 1 mile radius.
- (F) Setbacks for communications towers shall be as follows: setback from all property lines shall be a distance not less than 1 foot for every foot of tower height, but in no case less than 300 feet from any adjoining residential structure. This setback distance may be modified by the Board of Appeals.
- (G) The zoning certificate issued for a special exception shall be valid for a period of 5 years from the date that the decision of the Board of Appeals is signed. This zoning certificate shall be renewed for additional 5 year periods after review by the Board of Appeals at a regular meeting. The following are the only grounds on which renewal of a certificate may be denied.
- (1) The permittee has failed to comply with the conditions of the special exception approval.
- (2) The facility has not been maintained in a safe condition.
- (3) The Board of Appeals determines that the use of the tower for wireless communications has ceased for a period of 6 months.
- (H) All special exception approvals must also comply with the requirements of § 1-19-8.420.2.

(Ord. 77-1-78, § 40-72(A-16), 1-24-1977; Ord. 95-02-126, 3-2-1995; Ord. 99-14-241, 11-23-1999; Ord. 08-26-502, 10-14-2008)

## 📮 § 1-19-8.333. COUNTRY INNS IN RC AND A DISTRICTS.

The following provisions shall apply to country inns in RC and A Districts.

- (A) The minimum lot size will be 1 acre with minimum setbacks being the same as that required for a single-family dwelling in an A District.
- (B) No parking will be permitted within the required setback areas.
- (C) The property will have frontage and access on a paved public road.
- (D) They shall be located only within a structure that exists on January 24, 1977. Conversion of existing structures may include the expansion of such structures; however, the existing external

appearance of the structure must be maintained although it may be upgraded, repaired or expanded.

- (E) One freestanding sign no more than 15 feet in height and 25 square feet in area is permitted and shall be subject to the normal setback requirement for natural resources uses.
- (F) Within the RC District, the requirements of § <u>1-19-7.200</u> of this Code will be met.

(Ord. 77-1-78, § 40-72(A-17), 1-24-1977; Ord. 82-19-263, 9-7-1982; Ord. 95-02-126, 3-2-1995; Ord. 08-26-502, 10-14-2008; Ord. 09-21-525, 6-4-2009)

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The following provisions shall apply to farm equipment sales or service, feed or grain mills in the A District or agricultural products processing in A and RC Districts.

- (A) The minimum lot size setbacks and height are the same as required for natural resource uses.
- (B) The subject property must have frontage and access on a paved public road.
- (C) One freestanding sign is permitted and will be no more than 15 feet in height and 25 square feet in area and subject to the normal setback requirement for natural resource uses.
- (D) The parking requirements of §§ <u>1-19-6.200</u> through <u>1-19-6.230</u> of this Code shall be met, except that parking areas will be permitted within the setback areas.
- (E) Within the RC District, the requirements of § <u>1-19-7.200</u> of this Code will be met.
- (F) Petroleum, flammable liquid, or hazardous substance storage tanks shall have 100% catchment basin, or double-walled containment and a spill protection overfill alarm. This does not apply to propane or natural gas tanks.
- (G) Shall comply with § 1-6-50 Wellhead Protection Ordinance at site plan approval.
- (H) The following provisions shall apply to farm equipment sales or service in the A District:
- (1) Parking shall not be located within required setback areas.
- (2) Parking areas shall be screened from adjacent residential uses or residential zoning districts with plantings of evergreens, at least 5 feet in height, or a fence of equal height provided to screen the parking area.
- (3) The property must have frontage and access on an arterial roadway as designated in the County Comprehensive Plan and built to said classification requirements.

(Ord. 77-1-78, § 40-72(A-6), 1-24-1977; Ord. 82-19-263, 9-7-1982; Ord. 95-02-126, 3-2-1995; Ord. 07-16-456, 5-15-2007; Ord. 08-26-502, 10-14-2008; Ord. 09-21-525, 6-4-2009)

**凤** § 1-19-8.335. RESERVED.

**■§ 1-19-8.336. RESERVED.** 

# **№** § 1-19-8.337. NONGOVERNMENTAL ELECTRIC SUBSTATION IN THE LI OR GI DISTRICTS.

The following provisions shall apply to a nongovernmental electric substation in the LI or GI district.

- (A) An application for a nongovernmental electric substation in the LI or GI district shall include the following:
- (1) A statement and full explanation of why the proposed nongovernmental electric substation is necessary and how the facility conforms to a long-range plan for expansion of service to Frederick County, if a long-range plan exists, and how it will serve the public need for adequate, reliable, and economic service.
- (2) A vicinity map of appropriate scale depicting the tract of land proposed for nongovernmental electric substation development including surrounding properties and streets.
- (3) Information indicating the general conditions of use and existing improvements on adjoining properties within a 1,000-foot radius surrounding the subject property.
- (4) A description of the potential environmental and ecological (including water, air, wildlife, and vegetation) effect of the proposed nongovernmental electric substation on properties in the vicinity of the proposed development.
- (5) A description of the potential effect of the proposed nongovernmental electric substation on the scenic, historic and recreational values and residential property values, of properties in the vicinity of the proposed development.
- (6) An assessment of the impact from any electromagnetic fields to be produced by the proposed development.
- (7) An assessment of safety and reliability information including planned provisions for emergency operations and shutdowns.
- (8) Information as to how the applicant proposes to address the visual impact of the nongovernmental electric substation on neighboring county designated preservation areas, such as rural legacy areas, agricultural preservation areas, critical farms, Monocacy scenic river, Appalachian Trail, designated heritage areas, historic sites and sites eligible for designation.
- (9) A description of methods to be utilized to mitigate any negative waste disposal, air quality, visual or noise impacts associated with the development or operation of the nongovernmental electric substation.
- (10) Photographs of the existing conditions of the site and area.
- (11) Photo-documentation that a balloon test has taken place at the proposed site location.
- (12) All applications for a nongovernmental electric substation before the Board of Appeals shall be forwarded to the Historic Preservation Commission for review and comment regarding the project's impacts on any historic district, registered historic property, parks, designated heritage area, and other historic or cultural resource.

- (B) The following provisions shall apply to development of a nongovernmental electric substation in the LI and GI districts:
- (1) The minimum setback from all property lines is 50 feet, except as provided in (C) below.
- (2) Structures and parking are not permitted within the setback area.
- (3) Screening, landscaping, and fencing of the nongovernmental electric substation shall be provided as required by the Board of Appeals.
- (4) The Board of Appeals may approve an increase in the maximum height established in § <u>1-19-6.100</u>, where the increased height does not have an adverse impact on properties in the vicinity of the proposed nongovernmental electric substation.
- (C) The Board of Appeals may, in addition to other requirements imposed under this chapter and is hereby authorized to add to the specific requirements any additional conditions that it may deem necessary to protect adjacent properties, the general neighborhood, and its residents or workers. In accordance with this authority: where properties within the 1,000-foot radius are residentially zoned or contain residential land uses, the Board of Appeals may increase the minimum required setback to minimize adverse effects of the project on the surrounding residential properties.
- (D) When approving a nongovernmental electric substation, the Board of Appeals may authorize future changes not requiring further Board of Appeals approval within a 10 year period of the initial special exception approval. Such changes shall be limited to the addition, relocation, or modification of foundations or equipment, or additions to existing buildings, within a fence line approved by the Board of Appeals. The site plan must show initially proposed and future buildings and structures as reasonably expected within 20 years or the foreseeable future.
- (E) A reasonable effort shall be made by the applicant to contact and inform area homeowner associations and community associations of the proposed use together with an informational meeting.

(Ord. 12-23-618, 9-6-2012)

# § 1-19-8.338. KENNELS, ANIMAL HOSPITALS OR VETERINARY CLINICS IN THE A AND VC DISTRICTS.

The following provisions shall apply to commercial kennels, animal hospitals or veterinary clinics in the A and VC Districts.

- (A) The minimum lot area, lot width, yard setbacks and height, shall be as provided for in the table in § 1-19-6.100.
- (B) Operations will be conducted within a completely enclosed building, no outside runs or kennels are permitted, except in the A District, and then subject to a 150 foot minimum setback from all property lines.
- (C) In the A District, the maximum number of animals permitted shall be 100.

- (D) In the A District, one freestanding sign no more than 15 feet in height and 25 square feet in area is permitted and shall be subject to the normal setback requirement for natural resources uses.
- (E) The subject property must have frontage and access on a paved public road.
- (F) Animal incinerators are permitted as an accessory use to an animal hospital or veterinary clinic in the agricultural district only, and subject to the following additional requirements:
- (1) An animal incinerator shall be located only on a lot with a minimum lot size of 5 acres where an animal hospital or veterinary clinic exists.
- (2) The minimum setback from any property line for an animal incinerator use shall be 50 feet.
- (3) The property must have frontage and access on a paved public road, with a minimum pavement width of 20 feet and minimum classification of collector, as shown on the County Comprehensive Plan.
- (4) An animal incinerator must comply with all applicable state and federal regulations, including licensing requirements.

(Ord. 77-1-78, § 40-72(A-9), 1-24-1977; Ord. 80-24-176, 8-26-1980; Ord. 82-19-263, 9-7-1982; Ord. 95-02-126, 3-2-1995; Ord. 07-32-472, 7-17-2007; Ord. 08-26-502, 10-14-2008; Ord. 09-21-525, 6-4-2009; Ord. 11-25-591, 10-27-2011)

## § 1-19-8.339. NONGOVERNMENTAL UTILITY IN RC, A, R-1, R-3, R-5, R-8, R-12, R-16 AND VC DISTRICTS.

The following provisions shall apply to a nongovernmental utility in RC, A, R-1, R-3, R-5, R-8, R-12, R-16 and VC Districts.

- (A) Minimum setback from all property lines is 50 feet. Structures, fencing or parking are not permitted within the setback area.
- (B) Screening and landscaping is required as approved by the Board of Appeals.
- (C) Within the RC District, the requirements of § 1-19-7.200 of this Code will be met.
- (D) When permitted in any residential district, a nongovernmental utility shall have the exterior appearance of residential buildings and shall have suitable landscaping, screen planting and fencing, deemed necessary by the Board of Appeals.
- (E) Provide information to indicate the general conditions of use and existing improvements on adjoining properties within a 1,000-foot radius surrounding the subject property.
- (F) When approving a nongovernmental utility use, the Board of Appeals may authorize future changes not requiring further Board of Appeals approval within a 10 year period of the initial special exception approval. Such changes shall be limited to the addition, relocation, or modification of foundations or equipment, or additions to existing buildings, within a fence line approved by the Board of Appeals. The site plan must show initially proposed and future buildings and structures as reasonably expected within 20 years or the foreseeable future.

- (G) A reasonable effort shall be made by the applicant to contact and inform area homeowner associations and community associations of the proposed use together with an informational meeting.
- (H) Tests to determine mitigation requirements. In the event the Board determines to grant the special exception, the Board shall consider the following areas to determine the extent that impact mitigation measures will be required.
- (1) The Board shall make findings that the proposed building or structure at the location selected will not endanger the health and safety of workers and residents in the community and will not substantially impair or prove detrimental to neighboring properties.
- (2) The Board shall make findings regarding adverse effects of the project on the character of the surrounding area including impacts from sound, light, visual appearance, impervious surfaces, traffic impacts, and on forest and wildlife impacts.
- (3) All applications for nongovernmental utilities before the Board shall be forwarded to the Historic Preservation Commission for review and comment. The Board shall consider comments from the Historic Preservation Commission and shall make findings regarding the project's impacts on any historic district, registered historic property, parks, designated heritage area, and other historic or cultural resource. When there is a finding of negative impact based upon evaluation of the above, the Board shall to the maximum extent practicable require mitigation. Required mitigation may include the construction of fences, barriers, mandatory setbacks, the surfacing of access drives, shielding of lighting, or the establishment of buffers, vegetative screening, or landscaping.
- (I) All applications shall include information as to how the applicant has addressed the visual impact of the nongovernmental utility on neighboring county designated preservation areas, such as rural legacy areas, agricultural preservation areas, critical farms, Monocacy scenic river, Appalachian Trail, designated heritage areas, historic sites and sites eligible for designation.
- (J) Provide photographs of the existing conditions of the site and area.
- (K) Provide photo-documentation that a balloon test has taken place at the proposed site location (for substations only).

(Ord. 77-1-78, § 40-72(A-13), 1-24-1977; Ord. 95-02-126, 3-2-1995; Ord. 00-28-270, 9-7-2000; Ord. 08-26-502, 10-14-2008; Ord. 12-23-618, 9-6-2012)

# § 1-19-8.340. CIVIC COMMUNITY CENTER AND CIVIC SERVICE CLUB IN THE A DISTRICT, AND PLACE OF WORSHIP IN THE RC DISTRICT.

The following provisions shall apply to civic community center and civic service club in the A District, and place of worship in the RC District.

- (A) The minimum lot area, lot width, yard setbacks and height shall be as provided for institutional uses in the table in  $\frac{1-19-6.100}{1-19-6.100}$ .
- (B) The parking requirements of §§ <u>1-19-6.200</u> through <u>1-19-6.240</u> of this Code shall be met except that parking areas will not be permitted within the setback areas.

- (C) Parking shall be limited to that number required by zoning ordinance. An increase in the number of parking spaces may be granted by the Planning Commission where the applicant can demonstrate need based on characteristics of the proposed use, hourly parking demand studies published by the institute of transportation engineering, or other documentation as approved by the Planning Commission. Parking spaces approved beyond that number required by zoning ordinance shall be constructed of pervious materials.
- (D) The subject property must have frontage and access on a public road with a minimum pavement width of 20 feet
- (E) At the time of application a statement identifying all accessory uses including hours of operation, frequency of activity, and average number in attendance shall be submitted for review and approval by the Zoning Administrator.
- (F) Uses determined by the Zoning Administrator not to be a customarily incidental accessory to a place of worship shall only be established where:
- (1) The proposed use is allowed in the Resource Conservation Zoning District as delineated in § 1-19-5.310; and
- (2) Approval is received through the process provided for the proposed use in the Resource Conservation Zoning District in § <u>1-19-5.310</u>.
- (G) Within the RC District, the requirements of § <u>1-19-7.200</u> of this Code will be met.

(Ord. 95-02-126, 3-2-1995; Ord. 08-26-502, 10-14-2008; Ord. 09-21-525, 6-4-2009)

# § 1-19-8.341. PRIVATE SCHOOLS IN THE R-1, R-3, R-5, R-8, R-12, R-16, VC AND LI DISTRICTS.

The following provisions shall apply to private schools.

- (A) The minimum lot size and setbacks will be the same as normally required for institutional uses.
- (B) The lot must have frontage and access on a public road with a minimum pavement width of 20 feet to the nearest paved road.
- (C) The maximum attendance (number of students physically present at any 1 time) may not exceed 1 student per 970 square feet of lot area, except in the LI District where there shall be no maximum attendance limitation.

(Ord. 77-1-78, § 40-72(A-15), 1-24-1977; Ord. 82-19-263, 9-7-1982; Ord. 83-15-282, 6-7-1983; Ord. 95-02-126, 3-2-1995; Ord. 96-26-178, 12-17-1996; Ord. 08-26-502, 10-14-2008; Ord. 09-21-525, 6-4-2009)

### **▶**§ 1-19-8.342. PROFESSIONAL OFFICES IN R-5, R-8, R-12 AND R-16 DISTRICTS.

The following provisions shall apply to professional offices in R-5, R-8, R-12 and R-16 Districts.

(A) They will be located only within end units of townhouse structures or the lowest residential floor of multifamily structures.

- (B) Professional office parking spaces in addition to those required for the dwelling units, will meet the requirements of  $\S\S$  1-19-6.200 through 1-19-6.240 of this Code unless the operating hours are limited to 9:00 a.m. to 4:00 p.m.
- (C) No retail or wholesale trade sold or stored on the premises.
- (D) No more than 3 persons engaged in the operation of the office.
- (E) The professional office may display 1 exterior identification sign, attached flat against the structure and no more than 4 square feet. Freestanding signs are not permitted, however, interior identification signs are permitted.

(Ord. 77-1-78, § 40-72(A-8), 1-24-1977; Ord. 08-26-502, 10-14-2008)

**■** § 1-19-8.343. RESERVED.

# **■§ 1-19-8.344. RECREATIONAL VEHICLE STORAGE FACILITY IN THE AGRICULTURAL ZONING DISTRICT.**

A recreational vehicle storage facility shall be permitted in the Agricultural Zoning District where the following provisions are met:

- (A) A recreational vehicle storage facility shall be permitted only on a parcel that is adjacent to or adjoining a parcel on which a conforming recreational vehicle sales and service center is located. For the purposes of this subsection, a property separated from a recreational vehicle sales and service center by a transportation or utility right-of-way (whether fee simple estate or lesser interest in realty) is deemed to be adjacent along the length of such right-of-way.
- (B) No structure for the storage of recreational vehicles is permitted.
- (C) No recreational vehicle sales are permitted on the parcel containing the recreational vehicle storage facility.
- (D) The storage facility may include one accessory building for the purpose of maintenance of recreational vehicles stored on-site. The building shall not exceed 5,000 square feet to accommodate the maintenance of stored recreational vehicles, related offices, and equipment.
- (E) Maintenance activities (including all equipment and supplies) shall be conducted within a structure enclosed on at least 3 sides and screened from public view on the fourth side, unless enclosed.
- (F) Maintenance activities shall be conducted at least 100 feet from any residential dwelling on adjacent properties. All other activities shall maintain a minimum setback of 50' from all property lines. All structures shall be setback a minimum of 50' from all property lines.
- (G) Structures, parking, and recreational vehicles shall not be located within the setback areas.
- (H) A maximum height of 30'.
- (I) A vehicle circulation plan shall be submitted indicating adequate turn radius is provided both to and from the subject property as well as for vehicle movement within the site for all proposed vehicles and equipment being used.

- (J) The Board of Appeals may increase the minimum landscaping, buffering, and screening as provided in § 1-19-6.400, to minimize the adverse effects of the project on surrounding properties.
- (K) Petroleum, flammable liquid, or hazardous substance storage tanks shall have a 100% catchment basin, or double-walled containment and a spill protection overfill alarm. This does not apply to propane or natural gas tanks.
- (L) The use shall comply with § <u>1-6-50</u> (Wellhead Protection Ordinance) of the Frederick County Code at the time of site development plan approval.

(Ord. 13-25-653, 10-31-2013)

#### **№** 1-19-8.345. RODEOS.

- (A) The minimum area for a parcel to be granted the exception will be 25 acres.
- (B) The maximum duration for each event shall be 3 consecutive calendar days, with hours per event to be determined by the Board of Appeals.
- (C) The number of events per year shall be established by the Board of Appeals, but shall not exceed 25 per calendar year.
- (D) The event may use artificial lighting during hours specified in the Board's approval.
- (E) One freestanding sign will be permitted on site for the rodeo facility. Such sign shall not exceed 25 square feet in size or 15 feet in height.
- (F) The event may include concessions for food, drinks, and souvenirs at the applicant's option.
- (G) All setbacks shall be a minimum of 50 feet except when the use is adjacent to a residential use property where the minimum setback from the residential use property line shall be 150 feet.
- (H) No parking will be permitted within the setback area.
- (I) The property shall have frontage on and access to a paved road having a minimum pavement width of 20 feet and minimum classification as an arterial roadway on the County Comprehensive Plan.
- (J) The Board of Appeals shall have authority to establish reasonable hours of operation.

(Ord. 97-17-195, 12-2-1997; Ord. 08-26-502, 10-14-2008)

#### **№** 1-19-8.346. SCHOOL BUS PARKING.

The following provisions shall apply to school bus parking facilities in the RC, A, and VC Districts.

- (A) A maximum of 5 school buses can be parked on the site.
- (B) All school buses parked or stored outside of a structure shall be screened from adjacent properties and roads with plantings of evergreens, at least 5 feet high, or a fence of equal height.

- (C) No school buses shall be parked or stored within the setback requirements of 40 feet front yard, 50 feet side yard, and 50 feet rear yard.
- (D) Adequate parking shall be provided on site for school buses and drivers.
- (E) The driveway or access to the school bus parking area shall be paved by concrete, asphalt or stone surface.
- (F) Only minor repairs to the provider's own school buses shall be permitted. In no case shall body work, engine rebuilding, engine reconditioning or collision services be permitted.
- (G) A maximum of 550 gallons of fuel may be stored on the site, if approved by the Board of Appeals, upon compliance with all applicable environmental regulations and such fuel storage shall be set back a minimum of 50 feet from all property lines.
- (H) Shall comply with § <u>1-6-50</u> Wellhead Protection Ordinance at site development plan review.

(Ord. 95-28-152, 12-5-1995; Ord. 08-26-502, 10-14-2008; Ord. 09-21-525, 6-4-2009)

### **■§ 1-19-8.347. SAWMILL IN THE A AND RC DISTRICTS.**

The following provisions shall apply to sawmill operations requiring special exception approval in the A and RC Districts.

- (A) A minimum lot size of 10 acres.
- (B) Building setback shall be a minimum of 150 feet from property line.
- (C) The holder of the special exception must maintain all applicable valid federal, state and local permits.
- (D) Conditions may be established regulating the operation of the use, including, but not limited to, routing of trucks, total number of trucks, hours of operations, volume of operation and dust control. Parking and maintenance of trucks and other equipment and activities accessory to the operations must be included within the application and will be subject to all conditions established by the Board.
- (E) The use shall comply with all applicable noise, dust, and other pollutant standards set forth by federal, state and local regulations and at a minimum shall comply with § 1-19-7.610 as it applies to the Limited Industrial (LI) District.
- (F) The site shall have access to a collector or arterial roadway as designated on the County Comprehensive Plan and shall be built to said classification requirements.
- (G) The site shall have a minimum of 80 feet of road frontage. Access to a site via a panhandle is prohibited.
- (H) No zoning certificate will be issued by the Zoning Administrator until all applicable permits have been reviewed by the appropriate federal, state and local agencies and with the understanding that the issuance of the corresponding permits is only dependent upon the county issuance of the zoning certificate.

- (I) The use and zoning shall correspond to the County Comprehensive Plan designation.
- (J) Petroleum, flammable liquid, or hazardous substance storage tanks shall have 100% catchment basin, or double-walled containment and a spill protection overfill alarm. This does not apply to propane or natural gas tanks.
- (K) The use shall comply with § <u>1-6-50</u> (Wellhead Protection Ordinance) at site plan development review.
- (L) One freestanding sign of no more than 15 feet in height and 25 square feet in area is permitted and shall be subject to the normal setback requirement for natural resource uses.

(Ord. 09-21-525, 6-4-2009)

### **凤** § 1-19-8.348. SOLID WASTE OPERATION.

The following provisions shall apply to solid waste operations requiring special exception approval in Agricultural and General Industrial Districts.

- (A) Minimum lot area, 10 acres.
- (B) Building setback shall be 150 feet from property line.
- (C) The holder of the special exception must maintain all applicable valid federal, state and local permits.
- (D) Conditions may be established regulating the operation of the use, including, but not limited to, routing of trucks, total number of trucks, hours of operations, volume of operation and dust control. Parking and maintenance of trucks and other equipment and activities accessory to the operations must be included within the application and will be subject to all conditions established by the Board.
- (E) The use shall comply with all applicable noise, dust, and other pollutant standards set forth by federal, state and local regulations and at a minimum in the Agricultural District shall comply with § 1-19-7.610 as it applies to the Limited Industrial (LI) District.
- (F) The site shall have access to a collector or arterial roadway as designated on the Comprehensive Plan and shall be built to said classification requirements.
- (G) The site shall have a minimum of 80 feet of road frontage. Access to a site via a panhandle is prohibited.
- (H) No zoning certificate will be issued by the Zoning Administrator until all applicable permits have been reviewed by the appropriate federal, state and local agencies and with the understanding that the issuance of the corresponding permits is only dependent upon the county issuance of the zoning certificate.
- (I) The use and zoning shall correspond to the Comprehensive Plan designation.
- (J) Petroleum, flammable liquid, or hazardous substance storage tanks shall have 100% catchment basin, or double-walled containment and a spill protection overfill alarm. This does not apply to propane or natural gas tanks.

(K) Shall comply with § <u>1-6-50</u> (Wellhead Protection Ordinance) at site plan approval.

(Ord. 91-32-032, 11-19-1991; Ord. 07-16-456, 5-15-2007; Ord. 08-26-502, 10-14-2008)

**№ 1-19-8.349. RESERVED.** 

### **■§ 1-19-8.350. SPRING WATER HARVESTING IN THE RC DISTRICT.**

The following provisions shall apply to spring water harvesting uses in the RC District.

- (A) The minimum lot area, lot width, yard setbacks and height shall be as provided for natural resource uses in the table in § 1-19-6.100.
- (B) Operations will be conducted within a completely enclosed building, subject to a 150 foot minimum setback from all property lines.
- (C) An engineer certified hydro-geologic study must be provided to assess the impact of the operation on the groundwater resources of all properties within 2,000 feet of the subject site.
- (D) The subject property must have frontage and access on a paved public road suitable for the amount and type of vehicle traffic proposed. Spring water harvesting of less than 10,000 gallons per day does not need frontage to a paved road, but if an easement is used, agreement from the grantor or users of the easement must be obtained prior to approval, and operations shall be limited to straight chassis trucks of a gross vehicle weight not exceeding 66,000 pounds and a maximum of 3 loads per day.
- (E) Within the RC District, the requirements of § <u>1-19-7.200</u> of this Code will be met.
- (F) One freestanding sign is permitted and will be no more than 15 feet in height and 25 square feet in area and subject to the normal setback requirement for natural resource uses.

(Ord. 95-02-126, 3-2-1995; Ord. 97-08-186, 5-22-1997; Ord. 08-26-502, 10-14-2008; Ord. 09-21-525, 6-4-2009)

**№** 1-19-8.351. RESERVED.

## **■** § 1-19-8.352. STORAGE OF FLAMMABLE LIQUIDS.

The following provisions shall apply where it is proposed to store flammable liquids in excess of 60,000 gallons in the General Commercial and Highway Service Districts.

- (A) The minimum lot size shall be 40,000 square feet.
- (B) The flammable liquids may be stored above or under ground.
- (C) The storage shall be located a minimum of 100 feet from any well when underground or as provided in § <u>1-6-50</u> (Wellhead Protection Ordinance), whichever is greater.
- (D) That the containers shall comply with the setback requirements of § 1-19-7.610(J)(4).
- (E) Shall be governed by the International Building Code 2003 as amended concerning storage tanks, and the National Fire Protection Association 30 as amended.

- (F) Flammable liquid storage tanks shall have 100% catchment basin, or double-walled containment and a spill protection overfill alarm. This does not apply to propane or natural gas tanks.
- (G) Shall comply with § 1-6-50 (Wellhead Protection Ordinance) at site plan approval.

(Ord. 83-14-281, 6-7-1983; Ord. 07-16-456, 5-15-2007; Ord. 08-26-502, 10-14-2008)

### 📮 § 1-19-8.353. TENNIS CLUBS IN R-3, R-5, R-8, R-12 AND R-16 DISTRICTS.

The following provisions shall apply to tennis clubs in R-3, R-5, R-8, R-12 and R-16 Districts.

- (A) No minimum lot size is required and setbacks are as follows.
- (1) Front yard, same as for a single-family dwelling in the district in which the club is located.
- (2) Rear yard, 25 feet.
- (3) Side yard, equal to height of building; if no building exists, the side yard is 15 feet.
- (B) No parking is permitted within required setback areas.
- (C) Signs will be attached flat against the building. Sign size will be limited to no more than 25 square feet on each face of the building. If there is no building, then 1 freestanding sign no more than 10 feet in height, 16 square feet in total area and subject to a 15 foot setback requirement will be permitted.
- (D) All lighting will be directed away from or screened from adjoining properties.

(Ord. 77-1-78, § 40-72(A-10), 1-24-1977; Ord. 82-19-263, 9-7-1982; Ord. 08-26-502, 10-14-2008)

## 

The following provisions shall apply to tent campgrounds in A and RC Districts.

- (A) A minimum lot size of 10 acres.
- (B) Travel trailer or other residential vehicle is not permitted.
- (C) The only permitted permanent structure for residential occupancy will be occupied by the resident owner or manager.
- (D) The subject property must have frontage on and access to a paved public road.
- (E) Density will be no more than 1 camp site per acre.
- (F) One freestanding off-premise sign is permitted on each access road, the sign will be no more than 25 square feet in area, 15 feet in height, and will not be located on or in a public right-of-way.
- (G) Parking shall be limited to that number required by zoning ordinance and co-located adjacent to the access drive. An increase in the number of parking spaces may be granted by the Planning Commission where the applicant can demonstrate need based on characteristics of the proposed

use, hourly parking demand studies published by the Institute of Transportation Engineers (ITE), or other documentation as approved by the Planning Commission. Parking approved beyond that number required by zoning ordinance shall be constructed of pervious materials.

- (H) Within the RC District, the requirement of § 1-19-7.200 of this Code shall be met.
- (I) Insofar as practical at the time of site development plan review, the landscape shall be preserved in its natural state by:
- (1) Minimizing tree and soil removal or disturbance;
- (2) Retaining existing tree lines, forest buffers, and rock formations reducing visual impacts of development on surrounding properties and rights-of-way;
- (3) Siting buildings to protect and enhance the visual relationship between buildings and the natural terrain;
- (4) Reducing visual prominence of proposed structures by building adjacent to woodland edges and not in the center of open space areas on a proposed site;
- (5) Avoiding building on ridge lines, unless alternative site locations are unavailable and existing forest buffers can be retained to reduce visual impacts;
- (6) Opening up views only through selective tree and limb removal rather than clear cutting.

(Ord. 77-1-78, § 40-72(A-3), 1-24-1977; Ord. 82-19-263, 9-7-1982; Ord. 95-02-126, 3-2-1995; Ord. 08-26-502, 10-14-2008; Ord. 09-21-525, 6-4-2009)

## **№ § 1-19-8.355. SHOOTING RANGE/CLUB - TRAP, SKEET, RIFLE, ARCHERY IN THE RC AND A DISTRICTS.**

The following provisions shall apply to shooting range/club - trap, skeet, rifle, archery in the RC and A Districts.

- (A) Indoor shooting ranges and structures associated with shooting ranges shall be located at least 250 feet from all property lines and public ways and 450 feet from occupied structures. Permanent structures shall be limited to those customarily associated with the principal use of the property as a shooting range.
- (B) The setback of all structures not used for shooting ranges shall comply with the setbacks for principal structures in the districts in which they are located.
- (C) The property must have a minimum of 20 feet frontage on a public road or adequate easement to be determined by the Board of Appeals.
- (D) Shooting range/club trap, skeet, rifle, archery with a planned capacity of 100 persons or more must have frontage and access on a paved public road. If the planned capacity is under 100 persons, there will be no specific road requirements other than the provision contained in § 1-19-3.210(B)(5).
- (E) A site development plan shall be submitted to and approved by the Planning Commission.

- (F) Within the RC District, the requirements of § 1-19-7.200 of this Code will be met.
- (G) Outdoor discharging of firearms or release of arrows shall not be permitted within 500 feet of any property line.
- (H) Shooting ranges shall be constructed to eliminate danger to persons or property from flying projectiles. The area between the firing point and target shall be baffled, fenced, or otherwise shielded so that the fired projectiles cannot escape the range area. Safety design should be in accordance with accepted standards and practices.
- (I) Shooting ranges shall practice lead containment/collection of projectiles with best management practices for the individual site in accordance with nationally accepted standards to maximize containment.
- (J) The minimum lot size shall be 10 acres.
- (K) The facility shall be designed so that topographic features of the site are used to enhance safety, minimize firearm noise, and maximize lead containment.
- (L) Manner and times of operation shall be approved by the Board of Appeals.
- (M) One freestanding sign no more than 15 feet in height and 25 square feet in area is permitted and shall be subject to the normal setback requirement for natural resources uses.

(Ord. 77-1-78, § 40-72(A-13), 1-24-1977; Ord. 82-19-263, 9-7-1982; Ord. 85-6-338, 1-8-85; Ord. 95-02-126, 3-2-1995; Ord. 08-26-502, 10-14-2008; Ord. 09-21-525, 6-4-2009)

**■** § 1-19-8.356. RESERVED.

**■**§ 1-19-8.357. RESERVED.

#### Editor's note:

Ord. 08-07-483, adopted April 10, 2008, repealed § 1-19-396, which section pertained to nursing homes in A districts, and which was derived from Ord. 81-2-192, adopted January 27, 1981, and Ord. 94-29-124, adopted December 20, 1994.

#### **DIVISION 4. PERMITTED USES**

## **■** § 1-19-8.400. ASPHALT PLANTS IN THE GENERAL INDUSTRIAL DISTRICT.

The establishment of new asphalt plants (also commonly referred to as blacktop, bituminous concrete or asphaltic concrete) in the General Industrial District shall be permitted only if:

- (A) The stack of the plant is set back a minimum of 750 feet from any property not zoned GI or LI. Setback of stack from property zoned GI or LI shall be not less than 50 feet; however, when the stack height exceeds 50 feet, then the setback on all sides shall be equal to or greater than the height of the stack;
- (B) Outdoor storage will be permitted. Storage items adjacent to areas not zoned GI or LI shall not be stacked higher than the height of the berming and landscaping;

- (C) All on-site areas regularly traveled by vehicles and not occupied by the plant, stockpiles or landscaping shall be paved;
- (D) The facility shall conform with all applicable performance standards for industrial districts set forth in this chapter, including, but not limited to § 1-19-7.610 and all applicable state and federal requirements.

(Ord. 94-17-112, 8-2-1994; Ord. 08-26-502, 10-14-2008)

# § 1-19-8.405. ANIMAL HOSPITAL OR VETERINARY CLINIC IN THE GC AND MX DISTRICTS.

The following provisions shall apply to animal hospitals or veterinary clinics in the GC and MX districts.

- (A) The minimum lot area, lot width, yard setbacks and height, shall be as provided for in § <u>1-</u>19-6.100.
- (B) Operations will be conducted within a completely enclosed building. No outside runs or kennels are permitted.

(Ord. 11-25-591, 10-27-2011; Ord. 11-28-594, 11-22-2011)

# § 1-19-8.406. AUTOMOBILE REPAIR OR SERVICE SHOP IN THE LIMITED INDUSTRIAL DISTRICT.

The following provisions shall apply to an automobile repair shop or service in the Limited Industrial District.

- (A) an automobile repair shop building shall be at least 100 feet from any residential buildings on adjacent properties.
- (B) No outdoor work or outdoor storage of parts, equipment or vehicles shall be permitted except as provided in condition (C). No parking is permitted on the required setback areas.
- (C) No motor vehicles related to the auto repair business shall be parked outside of a screened parking area. A screened parking area shall be no larger than 2,500 square feet to allow for 5 vehicles (1 company vehicle and 1 employee vehicle are exempt from this number).
- (D) Parking areas provided shall be screened from adjacent properties and roads with plantings of evergreens, at least 5 feet high, or a fence of equal height provided to screen the parking area.
- (E) Petroleum, flammable liquid, or hazardous substance storage tanks shall have 100% catchment basin, or double-walled containment and a spill protection overfill alarm. This does not apply to propane or natural gas tanks.
- (F) Shall comply with § <u>1-6-50</u> (Wellhead Protection Ordinance) at site development plan approval.

(Ord. 11-25-591, 10-27-2011)

## **№** 1-19-8.407. APIARY.

The following provisions shall apply to apiaries in the R1, R3, R5, R8, R12, R16, VC, MX, GC, ORI, LI, and GI zoning districts.

- (A) The apiary shall be located at least 10 feet from any lot line.
- (B) The apiary shall be located behind a solid fence, hedge, or other barrier that is at least 6 feet in height, runs parallel to the property line, and extends 10 feet beyond the apiary in each direction.
- (C) A water supply shall be provided to minimize honeybees from seeking water off-site.
- (D) Apiaries shall comply with Maryland Department of Agriculture Regulations as they pertain to beekeeping.
- (E) Beekeepers shall be registered by Maryland Department of Agriculture and failure to maintain registration with the state constitutes a violation of this section.

(Ord. 12-08-603, 4-17-2012)

### **■§ 1-19-8.410. BED AND BREAKFAST.**

The following provisions shall apply to bed and breakfast.

- (A) The maximum stay for guests shall not exceed 30 days during a period of 6 months and no 1 visit shall exceed more than 14 consecutive days.
- (B) Meal service shall be limited to overnight guests only.
- (C) There shall be no separate kitchen or cooking facilities in any guestroom.
- (D) The use of amenities, such as a swimming pool, shall be restricted to use by guests of the establishment.
- (E) Minimum lot size and setbacks shall be as provided in  $\frac{1-19-6.100}{1}$  for a single family dwelling in the district where the use is allowed.
- (F) Parking shall not be located within required setback areas.

(Ord. 09-21-525, 6-4-2009; Ord. 12-08-603, 4-17-2012)

## **■** § 1-19-8.420. COMMUNICATION TOWERS.

## **№** § 1-19-8.420.1. SCOPE.

The provisions of this division shall apply to all communication towers erected in the county subsequent to the effective date of this amendment, and to communication towers erected prior to the effective date of this amendment as set forth in § 1-19-8.420.2(Q).

(Ord. 99-14-241, 11-23-1999; Ord. 08-26-502, 10-14-2008; Ord. 12-17-612, 6-21-2012)

## **凤§ 1-19-8.420.2. CRITERIA.**

The following design criteria shall apply to all communication towers in the GC, ORI, LI, GI, MM and non-residential MXD zoning districts as well as special exceptions in the RC and A Districts.

- (A) The applicant and the property owner shall be responsible for maintaining the tower in a safe condition.
- (B) The tower shall be utilized continuously for wireless communications. In the event the tower ceases to be used for wireless communications for a period of 6 months, the approval will terminate. The property owner shall remove the tower within 90 days after termination. The property owner shall insure the tower removal by posting an acceptable monetary guarantee with the county on forms provided by the office of the Zoning Administrator. The guarantee shall be for an amount equal to a cost estimate approved by the Zoning Administrator for the removal of the tower, plus a 15% contingency.
- (C) All towers shall be designed for co-location, which shall mean the ability of the structure to allow for the placement of antennae for 2 or more carriers. This provision may be waived by the approving body if it is determined that co-location will have an adverse impact on the surrounding area.
- (D) The tower height may exceed the maximum height permitted within the GC, ORI, LI and GI Districts, and provided the required setbacks are met after a determination by the approving body that its visual profile and appearance would make no substantial change in the character of the area.
- (E) All applications for approval of communications towers shall include:
- (1) Justification from the applicant as to why the site was selected;
- (2) Propagation studies showing service area and system coverage in the county;
- (3) Photo simulations of the tower and site, including equipment areas at the base from at least 2 directions and from a distance of no more than 1 mile.
- (F) As part of the site plan review, screening and fencing may be required around the base of the tower structure and any equipment buildings.
- (G) The appearance of the tower structure shall be minimized by the reasonable use of commercially available technology to reduce visual impact, with specific reference to size, color and silhouette properties. The decision of the approving authority shall be final.
- (H) No lighting is to be placed on the tower unless specifically required by the Federal Aviation Administration.
- (I) Monopoles shall be the preferred tower structure type within the county.
- (J) All tower sites shall be identified by means of a sign no larger than 6 square feet affixed to the equipment building or fence enclosure. Said sign shall identify the tower owner and each

locating provider and shall provide the telephone number for a person to contact in the event of an emergency.

- (K) Site plan approval for the tower, access, equipment, and structures shall be by the Planning Commission in accordance with the site plan regulations specified within the zoning ordinance.
- (L) No towers are permitted within land designated or eligible for designation for National Register or Frederick county Historic Districts or Sites.
- (M) A copy of all reports including the environmental assessment, NEPA review, and SHPO review, as required by or provided to the Federal Communications Commission, shall be included as part of the application.
- (N) Towers should be sited within or adjacent to areas of mature vegetation and should be located down slope from ridge lines and towards the interior of a parcel whenever possible and only should be considered elsewhere on the property when technical data or aesthetic reasons indicate there is no other preferable location.
- (O) All applications shall include information as to how the applicant has addressed the visual impact of the tower on all county designated preservation areas, such as: rural legacy areas, agricultural preservation areas, critical farms, Monocacy scenic river, Appalachian Trail, historic sites and sites eligible for designation.
- (P) Towers may be permitted within the Mineral Mining (MM) and non-residential Mixed Use Development (MXD) floating zones with the approval of the Planning Commission. Towers shall not be permitted within residential, PUD or residential MXD Districts.
- (Q) Communications towers in existence on the effective date of this ordinance (Ord. 99-14-241) shall not be required to comply with these provisions, except in the event they increase the height; provided, however, that any such tower which has ceased to be used for communications purposes for a period of 12 consecutive months, must comply with the existing requirements of the zone in which it is located before such tower may be used for telecommunication purposes. For purposes of this subsection (Q), the proposed installation of 1 or more antennae on a tower which has ceased to be used for communications purposes for a period of 12 consecutive months shall be deemed a use which must comply with the existing requirements of the zone in which it is located, and shall not be treated as an accessory use pursuant to § 1-19-8.205.2.
- (R) Except as provided in  $\frac{1-19-8.332}{F}$  setbacks for communications towers shall be as follows.
- (1) Setback from all property zoned residential shall be a distance not less than 1 foot for every foot of tower height, but in no case less than 300 feet. Setback distance may be modified by the approving body.
- (2) Setbacks from all properties zoned other than residential shall be determined by the approving body, but shall not be less than the fall zone of the tower as defined by the engineering specifications.

(Ord. 99-14-241, 11-23-1999; Ord. 08-26-502, 10-14-2008; Ord. 10-26-561, 11-9-2010; Ord. 11-25-591, 10-27-2011; Ord. 12-17-612, 6-21-2012)

#### Editor's note:

The effective date of Ord. 99-14-241 as referenced in division (Q) above is November 26, 1999.

# § 1-19-8.430. CONTRACTOR'S OFFICE AND STORAGE IN THE LIMITED INDUSTRIAL DISTRICT.

The storage of contractor's construction equipment and supplies in the Limited Industrial District shall be permitted only if:

- (A) The contractor's main office is located on the same lot or immediately adjacent to the lot on which the construction equipment and supplies will be stored; and
- (B) The contractor's construction equipment and supplies are stored, maintained and repaired in an accessory structure or structures which are fully enclosed on at least 3 sides and screened from public view on the fourth side unless enclosed. The Planning Commission may waive or modify the requirement for storage, maintenance, and repair of contractor's equipment and supplies within an accessory structure where:
- (1) It can be determined that the reduction or elimination will not adversely impact adjoining properties; and
- (2) the Planning Commission approves an alternate screening plan; and
- (3) Storage, maintenance, and repair is located and conducted to the rear of the principal structure and screened from the public way.
- (C) The storage structure(s) on any lot shall not exceed a .25 floor/area ratio for the lot on which it is located and in no event shall the storage structure area exceed 25,000 square feet. The storage building shall comply with the setback requirements for principal structures in the LI District and shall meet all other criteria of this Code for accessory structures in the LI District.

(Ord. 90-46-644, 11-20-1990; Ord. 08-26-502, 10-14-2008; Ord. 11-25-591, 10-27-2011)

## **№** § 1-19-8.440. LANDFILLS/BORROW PITS.

## **■** § 1-19-8.440.1. PROCEDURES.

- (A) All landfill sites shall conform to the County Solid Waste Plan and be located only in areas designated agricultural/rural or industrial on the County Comprehensive Plan.
- (B) Prior to the beginning of any excavations on the site, site plan approval must be granted by the Frederick County Planning Commission.
- (C) Copies of all state approved permits shall be submitted to the Zoning Administrator for review prior to the issuance of a zoning certificate, including the detailed plans for monitoring wells, site security and on site supervision.
- (D) All inspection reports shall be transmitted to the Zoning Administrator for his review.
- (E) Any and all conditions placed on the permit by the State of Maryland shall become conditions of zoning that shall be complied with.

(F) Grading and sedimentation permits must be obtained from the Division of Public Works and appropriate bonds must be posted.

(Ord. 89-1-532, 1-3-1989; Ord. 90-05-603, 2-6-1990; Ord. 08-26-502, 10-14-2008)

#### **■ § 1-19-8.440.2. DESIGN CRITERIA.**

- (A) Landfills and borrow pit operations shall be located a minimum of 150 feet from all property lines.
- (B) Landfills and borrow pits shall not be located within any designated floodplain or wetland areas.
- (C) All setback areas shall be landscaped and maintained as green area.
- (D) The road system providing access to the proposed use shall be adequate to serve the site for the intended use.
- (E) The Planning Commission shall have the authority to establish the hours and days of operation for landfills and borrow pit operations.

(Ord. 89-1-532, 1-3-1989; Ord. 08-26-502, 10-14-2008)

## **■§ 1-19-8.441. LIMITED LANDSCAPE CONTRACTOR IN THE A DISTRICT.**

The following provisions apply to the limited landscape contractor use in the A District.

- (A) A combined total of no more than 10,000 square feet of principal and accessory structures is permitted. When a limited landscape contractor use operates in conjunction with a retail or wholesale nursery use, all square footage provisions are calculated separately.
- (B) Total impervious surface area for parking and storage of equipment exterior to any structures is limited to 40,000 square feet. When a limited landscape contractor use operates in conjunction with a retail or wholesale nursery use, all square footage provisions are calculated separately.
- (C) Lot size, setback and height requirements are the same as other natural resource uses in the A District.
- (D) The parking requirements of  $\S\S 1-19-6.200$  through 1-19-6.230 of this code will be met; however, no parking area is permitted within the required yard setback.
- (E) The maximum number of employees is 10.
- (F) The subject property must have frontage and access on a paved public road with a minimum pavement width of 16 feet.
- (G) Petroleum, flammable liquid, or hazardous substance storage tanks shall have 100% catchment basin, or double-walled containment and a spill protection overfill alarm. This does not apply to propane or natural gas tanks.
- (H) The proposed use shall comply with  $\S$  <u>1-6-50</u> (Wellhead Protection Ordinance) prior to site plan approval.

(I) All equipment and materials must be screened from adjacent properties and public roads with plantings of evergreens, at least 5 feet in height, or a fence of equal height.

(Ord. 11-06-572, 5-17-2011)

#### **■ § 1-19-8.450. SELF-STORAGE UNITS.**

- (A) *Multiple structures*. Multiple self-storage unit buildings may be located on a single lot if the following requirements are satisfied:
- (1) Only one building shall be designated as the main or office building;
- (2) Signage shall be allowed and calculated only for the main or office building.
- (3) Each building, with the exception of one main or office building, shall be used exclusively for self-storage.
- (B) Bulk regulations.
- (1) See § 1-19-6.100.
- (2) If the development is adjacent to a residential district or use, then the minimum side yard setback shall be 20 feet or equal to the height of the building, whichever is greater.
- (C) Minimum landscaped open space.
- (1) Minimum landscaped open space shall not be less than 20% of the land area of the lot.
- (2) Open space shall not be used for parking or storage of vehicles, vehicular traffic, or stormwater management facilities.
- (3) All open space must be landscaped.
- (D) Design requirements.
- (1) The design of the building(s) shall be compatible with the surrounding property and uses. Elements to be considered in determining compatibility include: building height, scale, massing, orientation, and materials; lot orientation, size, shapes, widths and depths; distance between buildings; pedestrian and vehicular traffic circulation, access and parking; lighting, odor and noise impacts.
- (2) The facades of all building(s) must be of consistent design and constructed of the same or similar materials.
- (3) All service and loading areas shall be screened from public view.
- (4) Storage unit doors and access areas shall not face a public way (street, road, sidewalk, etc.) or the public view.
- (5) Lighting shall be designed and directed away, or screened, from adjoining properties so as not to cause glare on or adversely impact adjoining properties.
- (6) Lighting shall not exceed 0.5 foot/candles at the periphery of the site.

(7) Light poles may not exceed 12 feet (measured from the ground to the point of illumination or lens) unless the Planning Commission grants a modification during site plan review and approval.

(Ord. 07-31-471, 10-15-2007; Ord. 08-26-502, 10-14-2008)

## **■§ 1-19-8.460. SHOPPING CENTERS.**

In addition to the requirements of § <u>1-19-7.510</u> of this Code, the following will apply to shopping centers. Development within the Village Center Zoning District shall conform to Article 5, Division 3, Supplementary District Regulations, § <u>1-19-7.500</u>, Village Center District Overlay Standards.

- (A) Parking for a shopping center may be reduced by 10% over the figure arrived at by totaling the requirements of each individual use on the property or may be figured at 5.5 parking spaces per 1,000 square feet of gross leasable floor area. One of the 2 methods may be used at the option of the developer. Parking and loading areas may project to within one-half the required setback distance.
- (B) The subdivision of any lot off of a tract of land approved as a shopping center development will be governed by the following.
- (1) The newly created lot will have vehicular access by the same method as the shopping center unless another access point is allowed by the Planning Commission and the new access point will meet the conditions of § 1-19-7.510 as they pertain to access.
- (2) The newly created lot will be allowed to use the same sign size formula permitted for shopping centers, but will not be permitted to have a freestanding or pylon-type sign.
- (C) *Bulk regulations*. The Planning Commission may allow the modification of the shopping center bulk regulations for development within the Village Center Zoning District where the Planning Commission specifically finds that the modification provides for development that is more in conformance with the Village Center Overlay standards.
- (1) Minimum lot size of 2 acres.
- (2) Minimum frontage of 80 feet, with access on a public road with a minimum pavement width of 20 feet.
- (3) Minimum front yard setback of 50 feet.
- (4) Minimum side and rear yard setback of 30 feet unless adjacent to a residential district or use, then the setback shall be not less than 100 feet.
- (5) Maximum height of structures shall not exceed 60 feet.
- (D) Minimum landscaped open space.
- (1) Minimum landscaped open space shall not be less than 20% of the land area of the lot.
- (2) Such open space shall not be open to vehicles.

(3) All open space must be landscaped and maintained.

(Ord. 77-1-78, § 40-62(D), 1-24-1977; Ord. 82-19-263, 9-7-1982; Ord. 07-27-467, 6-19-2007; Ord. 08-26-502, 10-14-2008)

#### **■§ 1-19-8.470. TOWNHOUSE DEVELOPMENT.**

## **■**§ 1-19-8.470.1. SCOPE.

The provisions of this division shall apply to townhouse developments. Within the Village Center Zoning District development shall also conform to Article 7, Division 5 Supplementary District Regulations, Village Center District Overlay Standards § 1-19-7.500.

(Ord. 07-27-467, 6-19-2007; Ord. 08-26-502, 10-14-2008)

## **■ § 1-19-8.470.2. DENSITY.**

The overall density shall not exceed the maximum density permitted within the zoning district in which the development is located. When recorded as individual lots, each townhouse lot shall have a minimum of 1,600 square feet. Forty percent of the difference in lot size and net land area per townhouse shall be allocated to green area. Townhouse developments are subject to the requirements of § 1-19-8.620 through § 1-19-8.620.6 of this chapter.

(Ord. 77-1-78, § 40-74(A), 1-24-1977; Ord. 02-26-322, 11-21-2002; Ord. 08-26-502, 10-14-2008)

## **№** 1-19-8.470.3. LOT WIDTH.

The minimum lot width is 16 feet.

(Ord. 77-1-78, § 40-74(B), 1-24-1978; Ord. 08-26-502, 10-14-2008)

# **■** § 1-19-8.470.4. ROW LENGTHS.

There shall be no more than 8 and no less than 3 townhouses in a row except within the Village Center District. In the Village Center District where abutting a public street, townhouse and multi-family structures shall have a maximum width of 3 dwelling units.

(Ord. 77-1-78, § 40-74(C), 1-24-1978; Ord. 07-27-467, 6-19-2007; Ord. 08-26-502, 10-14-2008)

## **№** § 1-19-8.470.5. YARDS.

- (A) Each townhouse shall have a front yard of 25 feet. The Planning Commission may allow enclosure of front yard space in the townhouse development if the design provides for this feature. Townhouses may be arranged to face onto a common open area, such a common area shall be provided for unobstructed access of emergency vehicles. With such an arrangement, the front yard requirement may be reduced to 10 feet.
- (B) A side yard at least 10 feet in width shall be provided at each end of every row of townhouses. When an end unit abuts a street, the side yard shall have a minimum of 25 feet.
- (C) Each townhouse shall have a rear yard at least 20 feet in depth.

- (D) An accessory building may be located in a rear yard and shall occupy not over 25% of the rear yard area and shall be set back at least 5 feet from any alley or rear service street line.
- (E) The Planning Commission may allow the modification of the townhouse yard requirements for development within the Village Center Zoning District if the Planning Commission specifically finds that the modification provides for overall building placement that is more in conformance with the Village Center Overlay standards.

(Ord. 77-1-78, § 40-74(D), 1-24-1977; Ord. 07-27-467, 6-19-2007; Ord. 08-26-502, 10-14-2008)

## **■§ 1-19-8.470.6. ACCESS DRIVES AND OFF- STREET PARKING.**

Pedestrian and vehicular access shall be improved to standards specified by the Design Manual. Off- street parking facilities shall be provided in accordance with the Design Manual and §§ <u>1-19-6.200</u> through <u>1-19-6.240</u> of this Code. No parking area shall be more than 200 feet from the townhouse lot it is to serve.

(Ord. 77-1-78, § 40-74(E), 1-24-1977; Ord. 08-26-502, 10-14-2008)

## **■§ 1-19-8.470.7. MAINTENANCE OF COMMON LAND AND FACILITIES.**

If the townhouse development provides for common area, property, or facilities, they shall be conveyed to an incorporated nonprofit home association created under recorded land agreements through which each lot owner is automatically a member and through which each lot is automatically subject to a charge for a proportionate share of common property maintenance.

(Ord. 77-1-78, § 40-74(F), 1-24-1977; Ord. 08-26-502, 10-14-2008)

# § 1-19-8.480. USES PERMITTED IN THE EUCLIDEAN INSTITUTIONAL (Ie) ZONING DISTRICT.

The following provisions shall apply to permitted uses within the Euclidean Institutional Zoning District:

(A) Height, and front, side, and rear yard requirements for the Euclidean Institutional Zoning District are as follows:

Maximum height 30'

Minimum setback requirements

Front 40'

Side 50'

Rear 50'

(B) Subdivision occurring after May 14, 2010 within the Euclidean Institutional Zoning District is permitted only as follows:

- (1) Subdivision of 3 lots will be permitted to be subdivided off an original tract of land. For the purposes of this section, an original tract of land shall be as described in the county land records as of August 18, 1976.
- (2) For all parcels created or resulting from subdivision, minimum lot area and lot width shall be as follows:

Minimum lot area 5 acres

Minimum lot width 300'

- (C) College or university, or continuing care retirement community (CCRC) land uses within the Euclidean Institutional Zoning District as provided in § 1-19-5.310(B)(1) are permitted to expand subject to the site plan review process (§ 1-19-3.300 through § 1-19-3.300.4) and must meet the following requirements:
- (1) The expansion shall not include acreage beyond that originally designated as Euclidean Institutional; and
- (2) The proposed expansion shall not include non-conforming uses, structures, or lots; and
- (3) The proposed use meets the definition of:
- (a) College or university; or
- (b) Continuing care retirement community; or
- (c) Agricultural activities as defined in § 1-19-11.100; and
- (4) All other requirements of this chapter are met.
- (D) A private school, private school in conjunction with a place of worship, residential treatment center in conjunction with a private school, public school with Euclidean Institutional Zoning shall be permitted to expand subject to the site plan review process (§ 1-19-3.300 through § 1-19-3.300.4) and must meet the following requirements:
- (1) The proposed use(s) meets the definition of:
- (a) Private school: or
- (b) Private school in conjunction with a place of worship; or
- (c) Residential treatment center in conjunction with a private school;
- (d) Public school; or
- (e) Agricultural activities as defined in § 1-19-11.100; and
- (2) All other requirements of this chapter are met.

(Ord. 09-21-525, 6-4-2009; Ord. 09-27-531, 11-3-2009; Ord. 10-18-533, 5-4-2010; Ord. 10-31-566, 12-21-2010)

## **■§ 1-19-8.490. PLACE OF WORSHIP**

The following provisions shall apply to place of worship in the Agricultural Zoning District:

- (A) At the time of application a statement identifying all proposed accessory uses including hours of operation, frequency of activity, and average number in attendance shall be submitted for review and approval by the Zoning Administrator.
- (B) Uses determined by the Zoning Administrator not to be a customarily incidental accessory to a place of worship shall only be established where:
- (1) The proposed use is allowed in the Agricultural Zoning District as delineated in § <u>1-19-5.310</u>; and
- (2) Approval is received through the process provided for the proposed use in the Agricultural Zoning District in § 1-19-5.310.

(Ord. 09-21-525, 6-4-2009)

#### **DIVISION 5. INTENSIVE SWINE FEEDING OPERATIONS**

## **№** § 1-19-8.500. INTENT.

It is the intent of this article that it shall only apply to swine and operations which feed swine and shall not apply to any other types of animal operations.

(Ord. 00-29-271, 9-14-2000; Ord. 08-26-502, 10-14-2008)

## **№** 1-19-8.500.1. PURPOSE.

The purpose of this article is to provide for environmentally responsible construction and expansion of swine feeding operations and to protect the natural environment and the safety, welfare and quality of life of persons who live in the vicinity of a swine feeding operation.

(Ord. 00-29-271, 9-14-2000; Ord. 08-26-502, 10-14-2008)

## **■**§ 1-19-8.500.2. DEFINITIONS.

As used in this article:

**AFFECTED PROPERTY OWNER.** A surface landowner within a 1 mile radius of the designated perimeter of a swine feeding operation.

**APPLICANT.** The owner or operator of a swine feeding operation.

**ARTIFICIALLY CONSTRUCTED.** Constructed by humans.

**DESIGNATED PERIMETER.** The perimeter of any structure or combination of structures utilized to control swine waste until it can be disposed of in an authorized manner. Such structures shall include, but not be limited to, pits, burial sites, barns or roof- covered structures housing swine, compostors, waste storage sites, or retention structures or appurtenances or additions thereto.

#### EXPANDING OPERATION.

- (1) A facility that either increases its swine unit capacity to a number that causes the facility to initially meet the definition of a swine feeding operation; or
- (2) A swine feeding operation that seeks to increase its permitted capacity in excess of 5% of the original facility's permitted capacity.

**FACILITY.** Any place, site, or location or part thereof where swine are kept, handled, housed, or otherwise maintained and processed and includes but is not limited to buildings, lots, pens, and swine waste management systems.

**INTERESTED PARTY.** An affected property owner who validly requests an individual hearing, in accordance with the provisions of this article regarding the issuance of a swine feeding operation permit and asserts rights to relief in respect to or arising out of the same permit.

LAND APPLICATION. The spreading on, or incorporation of swine waste into the soil.

*OCCUPIED RESIDENCE*. A habitable structure designed and constructed for full-time occupancy in all weather conditions which:

- (1) Is not readily mobile;
- (2) Is connected to a public or permanent source of electricity and a permanent waste disposal system or public waste disposal system; and
- (3) Is occupied as a residence.

*ODOR ABATEMENT PLAN* or *OAP*. Schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce odor as established by this article.

**OPERATOR.** The owner or one who is responsible for the management of each facility of a swine feeding operation.

**OWNER OR OPERATOR.** Any individual, partnership, limited partnership, limited liability limited partnership, joint venture, corporation, limited liability company, or other business entity who owns, manages, or operates all or any part of or interest in the business of a swine feeding operation or the real property on which a swine feeding operation is located. The term **OWNER OR OPERATOR** includes an applicant for a swine farm operation permit and the person or entity to which a permit is issued.

**PROCESS WASTEWATER.** Any water utilized in the facility that comes into contact with any manure, litter, bedding, raw, intermediate, or final material or product used in or resulting from the production of swine and any products directly or indirectly used in the operation of a facility, such as spillage or overflow from swine watering systems; washing, cleaning, or flushing pens, barns, manure pits, direct contract, swimming, washing or spray cooling of swine; and dust control and any precipitation which comes into contact with swine or swine waste.

**SWINE.** A member of the porcine species.

**SWINE FEEDING OPERATION.** A lot or facility where 1,000 or more swine have been, are, or will be stabled or confined and fed or maintained for a total of 90 consecutive days or more in any 12 month period.

**SWINE WASTE.** Animal excrement, swine carcasses, feed wastes, process wastewaters or any other waste associated with the confinement of animals from a swine feeding operation.

**SWINE WASTE MANAGEMENT SYSTEM.** A combination of structures and nonstructural practices serving a swine feeding operation that provides for the collection, treatment, disposal, distribution, storage and land application of animal waste.

**WASTE FACILITY.** Any structure or combination of structures utilized to control swine waste until it can be disposed of in an authorized manner but does not include open pits or lagoon. Such structures shall include, but not be limited to, pits, burial sites, barns, or roof-covered structures housing swine, compostors, waste storage sites, or retention structures or appurtenances or additions thereto.

**WASTE MANAGEMENT PLAN** or **WMP.** A written plan that includes a combination of conservation and management practices designed to protect the natural resources of the county and state prepared by the Natural Resources Conservation Service (NRCS) or a private consultant with review and approval by NRCS.

WATERS OF THE STATE. All streams (perennial and intermittent), lakes, ponds, marshes, water-courses, waterways, wells, springs, irrigation systems, drainage systems, storm sewers and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through or border upon this state or any portion thereof, and shall include under all circumstances the waters of the United States which are contained within the boundaries of, flow through or border upon this state or any portion thereof. Process wastewaters shall not be considered as waters of the state if contaminated at the site.

(Ord. 00-29-271, 9-14-2000; Ord. 08-26-502, 10-14-2008)

## **■**§ 1-19-8.500.3. PERMIT.

- (A) Any swine feeding operation shall be required to obtain a permit to operate.
- (B) (1) Two or more swine feeding operations under common ownership management or control are considered, for the purposes of permitting, to be a single swine feeding operation if they adjoin each other or if they use a common area or system for the disposal of wastes.
- (2) After September 25, 2000, any swine feeding operation shall be required to obtain a permit for any increase in excess of 5% of the original facility's permitted capacity.
- (C) Expanding operations shall be required to seek a new permit prior to expansion.
- (D) After September 25, 2000, no new swine feeding operation or expansion of a swine feeding operation requiring a permit pursuant to this article shall be constructed or placed in operation unless final design plans and specifications have been approved by the Zoning Administrator pursuant to § 1-19-8.500.4 of this article.

- (E) (1) After the effective date of this article, no new swine feeding operation or expanding operation shall be constructed until a building permit for such facility or expansion has been issued by the Zoning Administrator. The new or expanded swine feeding operation (facility) must be certified and built to NRCS standards and specifications.
- (2) No new swine feeding operation or expanding operation shall be placed in operation until a permit for such facility or expansion has been issued by the Zoning Administrator.

## **■§ 1-19-8.500.4. PERMIT APPLICATION.**

- (A) The Zoning Administrator shall cause to be prepared and available, for any person desiring or required to apply for a permit, for a new or previously unpermitted swine feeding operation or expanding operation, the necessary forms and applications.
- (B) The application for a permit to operate a new or previously unpermitted swine feeding operation or expanding operation shall contain, at a minimum, the following information:
- (1) Name and address of the owner, mortgagee, deed of trust holder or installment sale vendor and/or operator of the facility;
- (2) Street and mailing address of the property on which the swine feeding operation will be located;
- (3) Number and type of swine housed or confined;
- (4) A diagram or map and legal description showing geographical location of the facility on which the perimeters of the facility are designated, location of waters of the state, including, but not limited to, drainage from the facility, swine waste, storage facilities and land application sites owned or leased by the applicant;
- (5) A copy of the waste management plan, nutrient management plan, soil and water conservation plan, odor abatement plan and such other plans reviewed and approved by the Maryland Department of the Environment and/or Maryland Department of Agriculture and/or NRCS and/or University of Maryland Cooperative Extension and/or Maryland Department of Health and Mental Hygiene;
- (6) A copy of any written waiver by an adjacent property owner to the facility releasing specified setback requirements as provided by § 1-19-8.500.13(C) of this article; and
- (7) Any other relevant information deemed necessary by the Zoning Administrator to administer the provisions of this article.
- (C) (1) An application for renewal of a permit to operate a swine feeding operation shall be considered to be properly filed when the Zoning Administrator has received a completed renewal application and payment of fees from the applicant.
- (2) If the application for renewal is denied, written notification of the denial and an opportunity for an administrative hearing on the denial shall be given to the applicant by the Zoning Administrator. The notification shall set forth the reasons for the denial, steps necessary to meet

the requirements for issuance of the renewal permit and the opportunity for the applicant to request an administrative hearing.

- (D) For transfer of a permit to a new owner or operator, the following conditions shall be met.
- (1) The new owner or operator shall submit to the Zoning Administrator a transfer application, which shall include any proposed changes to the conditions of the existing permit resulting from the transfer of ownership or operation.
- (2) After receipt of all information required, the Zoning Administrator shall review the information and within 60 days issue approval or denial of the transfer. Transfer of a permit shall be denied only if:
- (a) The new owner or operator cannot comply with the original conditions under which the original permit was granted;
- (b) The Zoning Administrator finds a material or substantial change in conditions to the original conditions of the original permit to operate the swine feeding operation;
- (c) Failure of the new owner or operator to meet any other conditions or requirements for compliance established by the Zoning Administrator pursuant to this article; or
- (d) The new owner or operator has failed to meet the requirements of this article; and
- (3) If a transfer is denied, written notification of such denial and an opportunity for an administrative hearing on the denial shall be given to the applicant for transfer of the permit by the Zoning Administrator. The notification shall set forth the reasons for the denial, steps necessary to meet the requirements for transfer of the permit and the opportunity for the applicant to request an administrative hearing.
- (E) Any suspension or revocation or nonrenewal of a permit issued pursuant to this article by the Zoning Administrator shall be made in accordance with § <u>1-19-8.500.15</u> of this article.
- (F) In addition to other information required for issuance of a new permit or the transfer of an existing permit, an application for a new permit or transfer of an existing permit for a swine feeding operation shall be under oath and shall contain the following information.
- (1) (a) A statement of ownership.
- 1. If the applicant is a sole proprietorship, limited partnership, limited liability, limited partnership or joint venture the name and address of each member thereof and percentage ownership of each shall be included in the application.
- 2. If the applicant is a corporation or limited liability company, the name and address of the corporation and the name and address of each officer and registered agent of the corporation and of each stockholder or member owning a 10% or greater interest shall be included in the application.
- (b) The information contained in the statement of ownership shall be public information and shall be available upon request from the Zoning Administrator.

- (2) The name and address of management, if the management is not the applicant and is acting as agent for the applicant.
- (3) (a) An environmental history from the past 3 years of any swine feeding operation established and operated by the applicant or any other operation with common ownership in this state or any other state. Such environmental history shall include but not be limited to all citations, administrative orders or penalties, civil injunctions or other civil actions, criminal actions, past, current and ongoing, taken by any person, agency or court relating to noncompliance with any environmental law, rule, agency order, or court action relating to the operation of a swine feeding operation.
- (b) A copy of all records relating to the environmental history required by this paragraph shall accompany the application.
- (c) Noncompliance with a final agency order or final order of judgment of a court of record which has been set aside by a court on appeal of such final order or judgment shall not be considered a final order or judgment for the purposes of this subsection.
- (4) Environmental awards or citations received or pollution prevention or voluntary remediation efforts undertaken by the applicant.
- (5) Any other relevant information or records required by the Zoning Administrator for purposes of implementing this article.
- (G) (1) In addition to other penalties as may be imposed by law, any person who knowingly makes any false statement, representation, or certification in, or omits material data from, or tampers with any application for a permit, or notice relating to the determination of affected property owners, shall upon conviction thereof, be guilty of a misdemeanor and may be subject to a fine of not more than \$1,000 for each such violation. In addition, the Zoning Administrator shall deny a permit to the applicant or may require submission of a new application.
- (2) The responsibility for ensuring that all affected property owners are notified pursuant to the provisions of this section shall be upon the applicant.

# **■§ 1-19-8.500.5. NOTICE AND HEARING REQUIREMENTS.**

- (A) Any person or entity applying for a permit for a swine feeding operation shall comply with the notice and hearing requirements as specified by this section and rules and regulations promulgated pursuant thereto by the Zoning Administrator.
- (B) After submission of a completed application as provided by this article, the Zoning Administrator shall have 60 days to review the application for a new or expanding operation for physical and technical suitability.
- (C) (1) After such review and after the applicant has submitted any required information to the Zoning Administrator, the Zoning Administrator shall require the applicant to notify all affected property owners of the proposed facility or expanding operations. Such notice shall be sent by certified mail, return receipt requested. The notice shall identify that an application for a swine feeding operation has been submitted to the Zoning Administrator, the location of the facility,

that a hearing may be requested pursuant to this subsection, and the date the application will be available for public review which shall begin no earlier than the day following the certified mailing of all the required notices, and such other information required by the Zoning Administrator.

- (2) Each affected property owner requesting a hearing shall submit, in writing, the following information:
- (a) The name and address of the interested party and proof that the interested party is an affected property owner;
- (b) A statement of specific allegations showing that the proposed facility or expanding operation may have a direct, substantial and immediate effect upon a legally protected interest of the interested party; and
- (c) The relief sought by the interested party.
- (3) If any of the affected property owners requests an administrative hearing, such hearing shall be held by the Zoning Administrator within not less than 30 days nor more than 60 days after the close of the public review period pursuant to subsection (D)(4) of this section. All interested parties may be joined as parties to the hearing.
- (4) At the hearing the Zoning Administrator shall hear testimony and accept evidence pertaining to the physical and technical suitability of the proposed facility or expanding operations. In addition, any affected party may present specific allegations based on scientific and technical findings of fact showing that the proposed facility or expanding operations may have a direct, substantial and immediate effect upon a legally protected interest of the affected property owner.
- (5) Establishment of property usage which is the date the swine feeding operation application was made available, pursuant to this section, for public review versus date of initial construction or placement of occupied residence, shall be given consideration when determining a contested matter between an applicant and an interested party on issues other than pollution of the waters of the state.
- (D) (1) In addition to the individual notice required by section of this article, the Zoning Administrator shall require the applicant to give public notice of the opportunity to comment on the requested permit.
- (2) The public notice for a new or expanding operation shall be published as a legal notice prior to the date the application is available for public viewing in at least 1 newspaper of general circulation in Frederick County. The applicant shall also post the property in accordance with § 1-19-3.200.2(C).
- (3) The notice shall identify locations where the application shall be available for viewing. Such locations shall include the office of the Zoning Administrator and a specific public location in the Frederick County.
- (4) The application shall be available for public review during normal business hours. The copies of the application posted for public viewing shall be complete except for proprietary information

otherwise protected by law and must remain posted during normal business hours for at least 20 working days after notice is published.

- (5) The Zoning Administrator, as necessary, may hold public meetings at a location convenient to the proposed facility or expanding operation to address public comments on the proposed facility or expanding operation.
- (E) Prior to the issuance of any permit for a swine feeding operation, or expanding operation, the Zoning Administrator shall require the applicant to submit:
- (1) Documentation certifying notice has been issued to all affected property owners. A map of all affected property owners within 1 mile and the corresponding mailing list shall be submitted with each application; and
- (2) Proof of publication notice of a new or expanding application for a swine feeding permit required by this section.

(Ord. 00-29-271, 9-14-2000; Ord. 05-27-388, 10-25-2005; Ord. 08-26-502, 10-14-2008; Ord. 09-27-531, 11-3-2009)

# **■** § 1-19-8.500.6. WASTE, NUTRIENT AND ODOR MANAGEMENT AND SOIL AND WATER CONSERVATION.

- (A) (1) The applicant shall submit:
- (a) A nutrient management plan;
- (b) Soil and water conservation plan;
- (c) A waste management plan, and
- (d) An odor abatement or control plan.
- (2) The above plans shall be prepared by the Maryland Cooperative Extension Service, NRCS or private consultant with review and approval by NRCS or Maryland Cooperative Extension Service. For operations over 1,000 animal units (2,500 hogs), a nonpoint source discharge permit will be required from the Maryland Department of the Environment.
- (B) The following records shall be maintained at the site as long as the facility is in operation. Quarterly reports of the following information shall be filed with the Zoning Administrator:
- (1) Water level in the retention structure;
- (2) Daily precipitation records from on-site rain gauge;
- (3) Incident reports such as spills and other discharges;
- (4) Inspection and maintenance reports;
- (5) Findings from annual inspections of the entire facility;
- (6) Log of removal of swine waste sold or given to other persons for disposal, including location and application information;

- (7) Other specific information deemed necessary by the Zoning Administrator to implement the provisions of this article;
- (8) Copy of general permit issued by the Federal Environmental Protection Agency if applicable, and other specific records deemed necessary by the Zoning Administrator to implement the provisions of this article; and
- (9) The notarized statement signed by the applicant accepting full responsibility for properly closing all waste retention structures pursuant to subsection (C) of this section.
- (C) The applicant shall sign a notarized statement accepting full responsibility for properly closing all swine waste retention structures if the facility ceases to function or is ordered to close by any governmental or regulatory body. When a permit is transferred, the new property owner or operator shall submit a signed notarized statement accepting full responsibility for properly closing all waste retention structures if the facility ceases to function or is ordered to close by any governmental or regulatory body.

## **■§ 1-19-8.500.7. DEVELOPMENT OF ODOR ABATEMENT PLAN.**

- (A) An odor abatement plan shall be developed by each swine feeding operation prior to the submission of an application pursuant to the provisions of this article. The odor abatement plan shall include, but not be limited to, provisions for documentation of structural controls, documentation of management practices, odor abatement and record keeping provisions.
- (B) (1) The odor abatement plan shall include specific methods of odor reduction which shall be tailored to each facility.
- (2) The odor abatement plan shall address methods for reducing odors in relationship to swine maintenance, waste storage, land application, and carcass disposal.
- (3) The applicant or owner or operator shall examine the odor abatement plan at least annually to evaluate the effectiveness of the plan, modify for changed conditions at the facility and determine if economically feasible technological advances are available and appropriate for the facility.
- (C) If, after reviewing the odor abatement plan, the Zoning Administrator determines that the plan does not adequately meet 1 or more of the factors set forth in subsection (D), the swine feeding operation shall make and implement appropriate changes to the plan, which may include the utilization of economically feasible technology designed to abate odor as required by the Zoning Administrator pursuant to this article.
- (D) In determining the adequacy of an odor abatement plan, the Zoning Administrator shall consider all relevant factors, including, but not limited to:
- (1) Design of the facilities;
- (2) Odor-control technology to be utilized;
- (3) Prevailing wind direction in relation to occupied residences;

- (4) Size of operation;
- (5) Distance from facility to occupied residences; and
- (6) All information contained in the application.

## **■§ 1-19-8.500.8. SWINE WASTE RETENTION STRUCTURE.**

- (A) (1) Any swine waste retention structure shall be constructed to standards and specifications of NRCS.
- (2) Each swine feeding operation shall install and maintain in working order a leak detection system or sufficient monitoring wells, both up gradient and down gradient, around the perimeter of each retention structure.
- (B) All substances entering the retention structures shall be composed entirely of wastewaters from the property operation and maintenance of a swine feeding operation and the runoff from the swine feeding operation area. The disposal of any materials other than substances associated with proper operation and maintenance of the facility into the containment structures, including, but not limited to, human waste, is prohibited.
- (C) All new retention structures of swine feeding operations shall be designed for odor abatement, groundwater protection and nutrient conservation.
- (D) Documentation, sampling, data and any other records required by this section shall be maintained on site for as long as the facility is in operation. Samples collected during the first year of the retention structure shall be considered the baseline data and must be retained on site for as long as the facility is in operation.

(Ord. 00-29-271, 9-14-2000; Ord. 08-26-502, 10-14-2008)

# **№** § 1-19-8.500.9. SWINE WASTE DISPOSAL, APPLICATION, AND ACCIDENTAL SPILL PROCEDURES.

- (A) If, for any reason, there is a spill or other release of any process wastewater, swine waste or other pollutant as defined in the Federal Clean Water Act (33 U.S.C. 1362), as amended, (a discharge), the owner or operator is required to make immediate notification to the Zoning Administrator. The report of the discharge shall include:
- (1) A description of the discharge and cause;
- (2) An estimation of the flow rate and volume discharged;
- (3) The period of discharge, including exact dates and times, and if not already corrected, the anticipated time the discharge is expected to continue;
- (4) Steps taken to reduce, eliminate and prevent recurrence of the discharge; and
- (5) Test results for fecal coliform bacteria, 5 day biochemical oxygen demand (BOD<sub>5</sub>), total suspended solids (TSS), ammonia nitrogen, total Kjeldahl nitrogen (TKN), any pesticides which

the operator has reason to believe could be in the discharge, or such other parameters as required by the Zoning Administrator which the Zoning Administrator has reason to believe could be in the discharge. The analysis of the water samples shall be performed by a qualified environmental laboratory certified by the Maryland Department of the Environment and approved by the Maryland Department of Agricultural and/or Maryland Department of Health and Mental Hygiene. These samples shall be taken at the most upstream and downstream point on the property where swine operation is located within 24 hours after the discharge occurs.

- (B) Records shall be maintained of all swine wastes applied on land owned or controlled by the owner and operator and sold or given to other persons for disposal.
- (C) If the swine waste from a swine feeding operation is sold or given to other persons for land application or disposal, the owner or operator of the swine feeding operation shall maintain a log of: date of removal from the swine feeding operation; names of such other persons; and amount, in wet tons, dry tons or cubic yards, of waste removed from the swine feeding operation.
- (D) (1) If the swine waste is to be land applied by other persons, a swine feeding operation shall make available to such other person the most current sample analysis of swine waste.
- (2) In addition, the swine feeding operator shall notify, in writing, any person to whom the swine waste is sold or given of the land application disposal requirements for swine waste as specified by the waste management plan.
- (3) The swine feeding owner or operator shall remain liable and responsible for compliance with all rules promulgated by the Zoning Administrator regarding proper handling and disposing of swine waste even if such disposal or application is performed by persons not employed or controlled by the swine feeding operation.
- (E) Soils in areas in which swine waste is applied shall be analyzed annually for phosphates, nitrates and soil pH prior to the first application of the swine waste in the calendar year. A copy of the results of the analysis shall be submitted to the Zoning Administrator and reviewed by a nutrient management specialist, upon request by the Zoning Administrator. Such analysis shall be retained by the owner or operator as long as the facility is in operation.
- (F) Every swine feeding operation permitted pursuant to this article shall develop a plan approved by the Zoning Administrator for the disposal of carcasses associated with normal mortality.
- (1) Dead swine shall be disposed of in accordance with a carcass disposal plan developed by the applicant or owner or operator and approved by the Zoning Administrator.
- (2) The plan shall include provisions for the disposal of carcasses associated with normal mortality, with emergency disposal when a major disease outbreak or other emergency results in deaths significantly higher than normal mortality rates and other provisions which will provide for a decrease in the possibility of the spread of disease and prevent the contamination of waters of the state.

(Ord. 00-29-271, 9-14-2000; Ord. 08-26-502, 10-14-2008)

# **№** § 1-19-8.500.10. INVESTIGATION OF COMPLAINTS; ACCESS TO PREMISES; RECORDS.

The Zoning Administrator or his authorized agents are empowered to enter upon the premises of any swine feeding operation for the purpose of inspecting and investigating complaints as to the operation or to determine whether there are any violations of this article.

(Ord. 00-29-271, 9-14-2000; Ord. 08-26-502, 10-14-2008)

### **■§ 1-19-8.500.11. ISSUANCE OF PERMIT AMOUNT OF FEE.**

- (A) Permits issued pursuant to this article shall renew on July 1 of each year upon payment of the annual permit fee and continued compliance with the provisions of this article.
- (B) The fees for a swine feeding operation permit and annual renewal thereof shall be established by the [Board of County Commissioners] COUNTY GOVERNING BODY.
- (C) All fees received by the Zoning Administrator for permitting of swine feeding operations shall be deposited in the office of the Treasurer for Frederick County.

(Ord. 00-29-271, 9-14-2000; Ord. 08-26-502, 10-14-2008)

### **■§ 1-19-8.500.12. DUTIES OF OWNERS AND OPERATORS.**

- (A) In addition to any other requirement of this article, swine feeding operations owners and operators who are granted a swine feeding operations permit shall:
- (1) Provide adequate veterinarian services for detection, control and elimination of livestock diseases;
- (2) Have available for use at all necessary times mechanical means of scraping, cleaning, and grading feed yard premises;
- (3) Provide weather resistant aprons adjacent to all permanently affixed feed bunks, water tanks, and feeding devices;
- (4) Provide a minimum of a 50 foot vegetated woody buffer strip on both sides of any perennial or intermittent stream, which is maintained in a living condition, in accordance with the recommendations made in the soil and water conservation plan, nutrient management plan, and waste management plan.
- (B) Any swine feeding operation operated in compliance with a permit issued under this article shall be deemed an agricultural operation under the scope of §§ <u>1-6-61</u> (Right to Farm Ordinance) *et seq.* of the Code.

(Ord. 00-29-271, 9-14-2000; Ord. 08-26-502, 10-14-2008)

# **■** § 1-19-8.500.13. SWINE FEEDING SETBACK REQUIREMENTS.

(A) Except as otherwise provided by subsection (C) of this section, no new or expanding swine feeding operation shall be constructed where its closest waste facility is within a distance of one-

half of a mile of any occupied residence not owned or leased by the owner or operator of the swine feeding operation.

- (B) Except as otherwise authorized by this subsection, no liquid swine waste shall be land applied (other than by injection) within 500 feet of the nearest corner of an occupied residence not owned or leased by the owner of the swine feeding operation.
- (C) The setbacks contained in subsections (A) and (B) of this section shall not apply if the applicable person, persons, entity or entities, such as property owner, mortgagee, deed of trust holder, or installment sale vendor, executes a written waiver with the owner or operator of the swine feeding operation, under such terms and conditions that the parties negotiate. The written waiver becomes effective upon recording of the waiver in the land records of Frederick County, Maryland. The filed waiver shall preclude enforcement of the setback requirements contained in subsections (A) and (B) of this section. A change in ownership of the applicable property or change in the ownership of the property on which the swine feeding operation is located shall not affect the validity of the waiver.
- (D) No liquid swine waste shall be land applied within 300 feet of an existing public or private drinking water well.
- (E) No swine feeding operation shall be established after September 25, 2000, which is located within 1 mile of a designated state, county, city, federal park, wildlife refuge, natural resources management area or wildland area.
- (F) All distances between occupied residences and swine feeding operations shall be measured from the closest corner of the walls of the occupied residence to the closest point of the nearest waste facility, as determined by the Zoning Administrator. The property boundary line of the real property is not used unless it coincides with the closest point of the waste facility or occupied residence.
- (G) All swine feeding operations must be located a minimum of 550 feet from all property lines. (Ord. 00-29-271, 9-14-2000; Ord. 08-26-502, 10-14-2008)

# § 1-19-8.500.14. RESTRICTIONS ON LOCATIONS OF CERTAIN SWINE FEEDING OPERATIONS AND WASTE FACILITIES.

- (A) Open pit or lagoon waste facilities are not permitted.
- (B) Except as otherwise provided in this article, swine feeding operations where swine are housed in roof-covered structures shall not be located within one-half mile from an occupied residence not owned or leased by the owner or operator of the swine feeding operation.
- (C) No waste facility or building or structure housing swine shall be located:
- (1) Within 1 mile of any designated scenic river area as specified by the Scenic Rivers Act; including the Monocacy River and the Potomac River;
- (2) Within 200 feet of any stream, creek, FEMA floodplain or MD-DNR mapped wetland area;
- (3) Within a designated public well-head protection area or public well recharge area;

- (4) On a lot or parcel with less than 100 feet of road frontage;
- (5) On a roadway with less than 20 feet of pavement width from the site in both directions to the nearest collector or arterial roadway;
- (6) On a roadway that lacks adequate sight distance (horizontal and vertical alignment) for large truck traffic as determined by the Frederick County [Department] DIVISION of Public Works.

### **№** 1-19-8.500.15. SUSPENSION OR REVOCATION OF PERMIT.

- (A) The Zoning Administrator shall have the power to suspend, revoke, or not renew the permit of any swine feeding operation after a hearing and after an administrative determination that such swine feeding operation has violated or has failed to comply with any of the provisions of this article.
- (B) The Zoning Administrator shall have the power and duty to reinstate any such suspended or revoked permits, or review such permits, upon a satisfactory and acceptable showing and assurance that such swine feeding operation is conducted in conformity with, and in compliance with, the provisions of this article and that such conformity and compliance will continue.
- (C) In order to protect the public health and safety and the environment of this county, the Zoning Administrator, pursuant to this article, may deny issuance of a permit to establish and operate a swine feeding operation on and after September 25, 2000, to any person or other legal entity which:
- (1) Is not in substantial compliance with a final agency order or any final order or judgment of a court of record secured by any state or federal agency relating to swine feeding operations; or
- (2) Has evidenced a reckless disregard for the protection of the public and the environment as demonstrated by a history of noncompliance with environmental laws and rules resulting in endangerment of human health or the environment.

(Ord. 00-29-271, 9-14-2000; Ord. 08-26-502, 10-14-2008)

## **■**§ 1-19-8.500.16. PENALTIES.

- (A) Any person violating the provisions of this article shall, upon conviction, be deemed guilty of a misdemeanor and upon conviction thereof may be punished by a fine not to exceed \$200.
- (B) Any owner or operator who fails to take such action as may be reasonable and necessary to avoid pollution of any stream, lake, river or creek, except as otherwise provided by law, or who violates any rule of the Zoning Administrator adopted to prevent water pollution from swine feeding operations pursuant to this article shall, upon conviction, be deemed guilty of a misdemeanor, and upon conviction thereof may be punished by a fine of \$500 to \$1,000 for each violation by imprisonment in the county jail for not more than 90 days for each violation.
- (C) Any person assessed an administrative or civil penalty may be required to pay, in addition to such penalty amount and interest thereon, costs associated with the collection of such penalties.

- (D) The County Attorney or state's attorney, as appropriate, may bring an action in a court of competent jurisdiction for the prosecution of a violation by any person of a provision of this article, or order, or permit, issued pursuant thereto.
- (E) (1) Any action for injunctive relief to redress or restrain a violation by any person of this article, or order, or permit, issued pursuant thereto or recovery of any administrative or civil penalty assessed pursuant to this article may be brought by the County Attorney.
- (2) The court shall have jurisdiction to determine said action, and to grant the necessary or appropriate relief, including, but not limited to, mandatory prohibitive injunctive relief, interim equitable relief, and punitive damages.
- (F) Except as otherwise provided by law, administrative and civil penalties shall be paid to the Treasurer for Frederick County, Maryland.
- (G) In determining the amount of a civil penalty or administrative penalty, the court or the Zoning Administrator, as the case may be, shall consider such factors as the nature, circumstances and gravity of the violation or violations, the economic benefit, if any, resulting to the defendant from the violation, the history of such violations, any good faith efforts to comply with the applicable requirements, the economic impact of the penalty on the defendant, the defendant's degree of culpability, and such other matters as justice may require.
- (H) For the purposes of this section, each day upon which a violation is committed or is permitted to continue shall be deemed a separate offense.
- (I) In addition to other penalties as may be imposed by law, any person who knowingly makes any false statement, representation or certification in any water pollution form, notice or report, or who knowingly renders inaccurate any monitoring device or method required to be maintained by any water pollution rules promulgated by the Zoning Administrator shall, upon conviction, be guilty of a misdemeanor and may be subject to a fine of not more than \$1,000 for each such violation.

#### **DIVISION 6. OTHER**

# **■§ 1-19-8.600. HISTORIC STRUCTURES OR SITES.**

The Board of Appeals may grant a special exception in any zoning district, for the conversion of an existing historic structure or site into a restaurant, inn, antique shop, museum, information center, business or professional office, group home use, or a facility for functions such as seminars, festivals, cultural or social events, or other similar activities of historic interest, provided that off-street parking requirements of this chapter are met. Such conversion shall not result in any substantial external alteration of the appearance of the historic structure or site. Historic structure or site as used in this section only means a structure or site listed on or eligible for the National Register of Historic Places, the Maryland Register of Historic Places or the Frederick County Register of Historic Places. All requests for special exception under this section shall be referred to the Frederick County Historic Preservation Commission for determination of eligibility for placement on the Frederick County Register of Historic Places,

and for review and comment. Before the special exception can take effect, the historic structure or site must be listed on the Frederick County Register of Historic Places.

(Ord. 77-1-78, § 40-62(E), 1-24-1977; Ord. 80-3-155, 1-29-1980; Ord. 00-25-267, 8-1-2000; Ord. 08-26-502, 10-14-2008)

# § 1-19-8.610. LAND SUBJECT TO AGRICULTURAL LAND PRESERVATION EASEMENTS.

Any land which is subject to an agricultural land preservation easement purchased pursuant to Md. Code Ann., Subtitle 5, the Agriculture Article may be subdivided as follows. Upon written application by the grantor of an agricultural land preservation easement to the Maryland Agricultural Land Preservation Foundation and approval by the foundation, the grantor of an easement may subdivide lots of not less than 40,000 square feet for the grantor of the easement and for each of his children in accordance with Md. Code Ann., the Agriculture Article, § 2-513(b); provided further, that the owner who granted an easement may construct tenant houses for tenants fully engaged in operation of the farm, but this construction may not exceed 1 tenant house per 100 acres.

(Ord. 80-10-162, 4-8-1980; Ord. 08-26-502, 10-14-2008)

## **■§ 1-19-8.620 MODERATELY PRICED DWELLING UNIT (MPDU).**

## **■§ 1-19-8.620.1. PURPOSE AND DESCRIPTION.**

The purpose of the MPDU program is to substantially increase the county's supply of moderately priced housing units as a natural function of the development process. This program permits an increase in density above the total number of dwelling units permitted by the standard method of development. It also permits a reduction in certain area and dimensional requirements where certain criteria are met (see also § 1-19-8.620.5). Alternative options to the production of MPDUs in residential developments may be granted in exceptional cases (Chapter 6A, § 1-6A-5(E) of the MPDU program). The site plan approval procedures of § 1-19-2.160 and § 1-19-3.300 through § 1-19-3.300.4 of this Code must be followed, except as provided in this division. Where any of the provisions of this section are elected for a development, all of the requirements of this division apply.

(Ord. 02-26-322, 11-21-2002; Ord. 08-26-502, 10-14-2008; Ord. 09-22-526, 7-14-2009; Ord. 13-25-653, 10-31-2013)

#### Editor's note:

The specific regulations governing the unit costs, income levels and administration of the MPDU program are established as a separate MPDU ordinance with accompanying resolutions and shall be the governing authority. See Chapter 6A.

# **■**§ 1-19-8.620.2. SCOPE AND REQUIREMENTS.

The provisions of this division shall apply to all residential developments consisting of 25 units or more on public water and sewer. Residential developments consisting of 25 units or more are required to provide no less than 12.5% of the total units as MPDUs. This includes all

developments in VC, R-1, R-3, R-5, R-8, R-12, R-16 residential districts, MX, MXD, and PUD districts.

(Ord. 02-26-322, 11-21-2002; Ord. 08-26-502, 10-14-2008; Ord. 10-26-561, 11-9-2010; Ord. 11-25-591, 10-27-2011; Ord. 11-28-594, 11-22-2011; Ord. 12-08-603, 4-17-2012)

## **№** § 1-19-8.620.3. DENSITY BONUS.

- (A) Density bonuses ranging from 1% to 22% with a corresponding increase in the MPDU requirement from 12.5% to 15% are permitted in R-1, R-3, R-5, R-8, R-12, and R-16 residential districts, VC, MX, MXD, PUD, and co-housing.
- (B) The required MPDU units and allowed density bonuses are:

Achieved Density Bonus	MPDUs Required
Zero	12.5%
Up to 1%	12.6%
Up to 2%	12.7%
Up to 3%	12.8%
Up to 4%	12.9%
Up to 5%	13.0%
Up to 6%	13.1%
Up to 7%	13.2%
Up to 8%	13.3%
Up to 9%	13.4%
Up to 10%	13.5%
Up to 11%	13.6%
Up to 12%	13.7%
Up to 13%	13.8%
Up to 14%	13.9%
Up to 15%	14.0%
Up to 16%	14.1%
Up to 17%	14.2%
Up to 18%	14.3%
Up to 19%	14.4%
Up to 20%	14.5%
Up to 22%	15.0%

(Ord. 02-26-322, 11-21-2002; Ord. 08-26-502, 10-14-2008; Ord. 10-26-561, 11-9-2010; Ord. 11-25-591, 10-27-2011; Ord. 11-28-594, 11-22-2011; Ord. 12-08-603, 4-17-2012)

## **■§ 1-19-8.620.4. EXCEPTIONS.**

Any existing site plan, preliminary subdivision plat or Phase II PUD plan approved and having prior APFO approval prior to the effective date of this chapter shall be exempt from the MPDU requirement as long as such approved plan or plat, including any extension or modification thereof, remains valid. Notwithstanding the above, if any revision or modification of an approved plan which would otherwise be exempt from this chapter increases the density of the project, the increased density shall be subject to the requirements of this chapter.

(Ord. 02-26-322, 11-21-2002; Ord. 08-26-502, 10-14-2008)

## **■**§ 1-19-8.620.5. LOT AREA, WIDTH AND YARD MEASUREMENTS.

- (A) A full reduction of lot area, width, and yard measurements for all or a portion of a project utilizing the payment in lieu of building MPDU's (as provided in § 1-6A-5.1 of the Frederick County Code) is not guaranteed.
- (B) Within projects with R1, R3, R5, R8, R12, or R16 zoning where payment is made in lieu of building MPDU's the reduced measurements as provided in the chart below (§ 1-19-8.620.5.E) may be utilized only after the Planning Commission or its authorized representative has approved the reduced measurements based on consideration of the following factors:
- (1) Buildings will be located and designed with consideration of the surrounding development patterns with regard to scale and setbacks.
- (2) Buildings shall predominantly be designed and constructed to include finishes and materials of consistent quality and design.
- (3) Buildings shall be designed and oriented to pedestrian and recreational amenities, streets and roadways.
- (4) The proposed project provides adequate open space and preservation of natural features.
- (5) Proximity, convenience, and accessibility of central organizing features such as parks, green areas, recreation areas, civic spaces, or community facilities, to the residents of the development.
- (6) Pedestrian and vehicular interconnections with existing and planned transportation networks.
- (7) Provisions for off street parking to the side and/or rear of residential buildings including incorporation of alley loaded units.
- (C) Concept plan approval (submitted in conformance with § 1-19-3.300.2(B)) from the Planning Commission or its authorized representative is required as the first step in the development review process for projects with R1, R3, R5, R8, R12, or R16 zoning, utilizing the reduced measurements as provided for in § 1-19-8.620.5.E, and utilizing payment in lieu of building MPDU's.
- (D) The provisions of this section shall apply to all subdivision or site development plan applications for projects with R1, R3, R5, R8, R12, or R16 zoning or amendments that increase the intensity or density of approved subdivision or site development plans for projects with R1, R3, R5, R8, R12, or R16 zoning filed on or after November 10, 2013.

Use Classification	Current Min. Lot Area	Proposed Min. Lot Area	Current Lot Width	Proposed Lot Width	Current Front Yard	Proposed Front Yard	Current Side Yard	Proposed Side Yard	Current Rear Yard	Proposed Rear Yard	Current Height	Proposed Height
Residential One	District R-	1										
Residential												
Single family	40,000	12,000	100	80	40	30	10	10	30	25	30	30
Duplex dwelling	1 acre	12,000**	100	80	40	30	10	10	30	25	30	30
Two family dwelling	2 acre	12,000**	150	100	40	30	15	10	30	25	30	30
Residential Thre	e District I	R-3										
Residential												
Single family	12,000	4,000	80	40	30	10	10	4/10*	30	25	30	40
Duplex dwelling	12,000	2,500**	80	25	30	10	10	1/10*	30	25	30	40
Two family dwelling	24,000	2,000**	100	40	30	10	10	4/10*	30	25	30	40

Use Classification	Current Min. Lot Area	Proposed Min. Lot Area	Current Lot Width	Proposed Lot Width	Current Front Yard	Proposed Front Yard	Current Side Yard	Proposed Side Yard	Current Rear Yard	Proposed Rear Yard	Current Height	Proposed Height
Townhouse		1,600		16		10		4/10*		20		40
Residential Five	District R-	5										
Residential:												
Single family	8,000	3,500	70	35	30	10	8	4/10*	30	25	30	40
Duplex dwelling	8,000	2,000**	70	20	30	10	8	4/10*	30	25	30	40
Two family dwelling	16,000	1,750**	80	35	30	10	8	4/10*	30	25	30	40
Townhouse	1,600	1,600	16	16	10	10	15	4/*10*	20	20	30	40

Use Classification	Current Min. Lot Area	Proposed Min. Lot Area	Current Lot Width	Proposed Lot Width	Current Front Yard	Proposed Front Yard	Current Side Yard	Proposed Side Yard	Current Rear Yard	Proposed Rear Yard	Current Height	Proposed Height
Residential Eight D	istrict R-8											
Residential:												
Single family	6,000	3,500	65	35	25	5	8	4/10*	30	25	30	40
Duplex dwelling	6,000	2,000**	65	20	25	5	8	4/10*	30	25	30	40
Two family dwelling	12,000	1,750*	100	35	25	5	10	4/10*	30	25	30	40
Townhouse	1,600	1,600	16	16	25	5	15	4/10*	20	20	30	40
Multi family dwelling	No Min.	No Min.	150	120	40	10	30	10	50	20	40	60
Multi family group	No Min.	No Min.	150	120	40	10	30	10	50	20	40	60
Residential Twelve	District R-	12										
Residential:												
Single family	6,000	3,000	65	30	25	5	8	4/10*	30	20	30	40

Use Classification	Current Min. Lot Area	Proposed Min. Lot Area	Current Lot Width	Proposed Lot Width	Current Front Yard	Proposed Front Yard	Current Side Yard	Proposed Side Yard	Current Rear Yard	Proposed Rear Yard	Current Height	Proposed Height
Duplex dwelling	6,000	2,000**	65	20	25	5	8	4/10*	30	20	30	40
Two family dwelling	10,000	1,500**	100	30	25	5	8	4/10*	30	20	30	40
Townhouse	1,600	1,600	16	16	25	5	15	4/10*	20	20	30	40
Multi family dwelling	No Min.	No Min.	150	100	40	10	+	10	+	20	100	120
Multi family group	No Min.	No Min.	150	100	40	10	+	10	+	20	100	120

Use Classification	Current Min. Lot Area	Proposed Min. Lot Area	Current Lot Width	Proposed Lot Width	Current Front Yard	Proposed Front Yard	Current Side Yard	Proposed Side Yard	Current Rear Yard	Proposed Rear Yard	Current Height	Proposed Height
Residential Sixteen	District R	-16 and MX	Υ .									
Residential:												
Single family	6,000	3,000	60	30	25	5	8	4/10*	30	20	30	40
Duplex dwelling	6,000	2,000**	60	20	25	5	8	4/10*	30	20	30	40
Two family dwelling	10,000	1,500**	60	30	25	5	8	4/10*	30	20	30	40
Townhouse	1,600	1,600	16	16	15	5	10	4/10*	20	20	30	40
Multi family dwelling	No Min.	No Min.	100	80	50	10	+	10	+	20	100	120
Multi family group	No Min.	No Min.	100	80	120	10	+	10	+	20	100	120
Village Center												
Residential:												

Use Classification	Current Min. Lot Area	Proposed Min. Lot Area	Current Lot Width	Proposed Lot Width	Current Front Yard	Proposed Front Yard	Current Side Yard	Proposed Side Yard	Current Rear Yard	Proposed Rear Yard	Current Height	Proposed Height
Single family	6,000	3,000	65	30	25	5	8	4/10*	30	20	30	40
Duplex dwelling	6,000	2,000**	65	20	25	5	8	4/10*	30	20	30	40
Two family dwelling	10,000	1,500**	75	30	25	5	8	4/10*	30	20	30	40
Townhouse	1,600	1,600	16	16	15	5	10	4/10*	20	20	30	40
Multi family dwelling	No Min.	No Min.	65	50	25	10	15	10	50	20	45	45
Multi family group	No Min.	No Min.	150	100	40	10	30	10	50	20	45	45

<sup>\*</sup> Minimum 4 ft. with minimum 10 ft. between structures.

(Ord. 02-26-322, 11-21-2002; Ord. 03-09-332, 6-3-2003; Ord. 08-26-502, 10-14-2008; Ord. 11-06-572, 5-17-2011; Ord. 11-28-594, 11-22-2011; Ord. 12-08-603, 4-17-2012; Ord. 13-25-653, 10-31-2013)

<sup>\*\*</sup> Minimum lot area per unit.

#### § 1-19-8.620.6. PROCEDURES FOR APPLICATION AND APPROVAL.

A written MPDU agreement must be approved by the Director of Housing in accordance with Chapter 6A (MPDU Ordinance), prior to the issuance of a building permit or the recordation of a final plat.

(Ord. 02-26-322, 11-21-2002; Ord. 08-26-502, 10-14-2008)

# § 1-19-8.630. SUBDIVISION AND DEDICATION OF LAND FOR AFFORDABLE HOUSING.

- (A) Property may be subdivided and dedicated to the [Board of County Commissioners] COUNTY for the purpose of supporting affordable housing programs in Frederick County. Such property may be dedicated in any zoning district where residential uses are permitted. Dedication of such land will occur following agreement with the Department of Housing and Community [development] DEVELOPMENT, and submittal and approval of an appropriate subdivision plat as required by the Frederick County Subdivision Regulations.
- (B) In the Agricultural Zoning District, notwithstanding § <u>1-19-7.300</u> of this chapter, a property owner may subdivide and dedicate 1 undeveloped building lot, or 1 lot containing an existing residence for the purposes outlined in subsection (A) above. The remainder property will retain all subdivision rights permitted before the dedication occurred.
- (C) In all Residential Districts, except for the Mobile Home Park Zone, a property owner with a parcel of 20 acres or more may dedicate up to 5% of the parcel along with the corresponding zoning density to the [Board of County Commissioners] COUNTY for purposes outlined in subsection (A) above. The remainder of the property, from which the parcel was subdivided and dedicated for the purposes set forth in subsection (A) above, shall be permitted to be developed to the full density which would have been allowed on the original parcel prior to the dedication.
- (D) Only 1 dedication per original tract will be permitted under this section. Development of both the dedicated parcel and remainder must comply with all applicable design standards and permitted uses for the zoning district in which they are located. A deed must be given to and accepted by the [Board of County Commissioners] COUNTY and recorded in the land records in conjunction with the recordation of the subdivision plat.

(Ord. 91-34-034, 12-3-1991; Ord. 08-26-502, 10-14-2008)

#### **DIVISION 7. TEMPORARY STRUCTURES AND USES**

## **■§ 1-19-8.700. TEMPORARY OUTDOOR ACTIVITIES.**

(A) An application must be made for a temporary use permit which may be issued by the Zoning Administrator for all of the following outdoor activities to which are invited or are open to a segment of the general public: namely carnivals, circuses, tent revival meetings, musical festivals, public gatherings, public rallies, dinners, sales, bazaars, and similar activities in all zoning districts, except residential wherein temporary use permits shall not be issued. However, customary accessory uses contained in §§ 1-19-8.205 and 1-19-8.210 do not require temporary use permits. (Outdoor shall include activities in a tent, pavilion or open-type permanent

structures.) Before issuing a permit, the Zoning Administrator shall determine that the site is adequate for its intended temporary use according to the following.

- (1) The proposed activity is in compliance with all safety, health, and environmental standards and is not detrimental to the surrounding area.
- (2) The site is of a sufficient size to accommodate the intended temporary use.
- (3) A buffer zone devoid of all activities of 100 feet from all adjacent property lines will be maintained.
- (4) Safe and orderly flow of traffic can be ensured.
- (B) Contractors and lot owner's temporary structures are allowed as a temporary use in any district in connection with a construction project. Such structures will comply with the yard requirements of the zoning district. Said structures will be removed at the completion of construction or expiration of permit.

(Ord. 08-26-502, 10-14-2008)

## **DIVISION 8. [RESERVED]**

**■**§ 1-19-8.800. [RESERVED].

## ARTICLE IX: ENVIRONMENTAL REGULATIONS

Section

#### Division 1. Floodplain District Regulations

1-19-9.100 Floodplain District

1-19-9.110 Activities within Floodplain District

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1-19-9.130 Watercourse relocation or alteration

#### Division 2. Danger Reach Areas

1-19-9.200 Danger reach areas

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Division 3. Wet Soils

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<u>1-19-9.400</u> Waterbody buffer requirements

#### **DIVISION 1. FLOODPLAIN DISTRICT REGULATIONS**

## **■§ 1-19-9.100. FLOODPLAIN DISTRICT.**

- (A) *Purpose and intent*. The Floodplain District is established to protect human life and health, minimize property damage, encourage appropriate construction practices to minimize future damage, to protect water supply, sanitary sewage disposal, and natural drainage. For purposes of this chapter, and other applicable ordinances, the Floodplain District will be considered to be the most extensive of the following:
- (1) FEMA Floodplain;
- (2) Flooding soils; and
- (3) Wetland areas.
- (B) *Establishing the Floodplain District*. The Floodplain District is an overlay to the underlying zoning districts as shown on the zoning map. The provisions of the Floodplain District are supplementary to the regulations of the underlying zoning district. Where there is any conflict between the provisions or requirements of the Floodplain District and those of any underlying district, the more restrictive provisions pertaining to the Floodplain District will apply.
- (1) The Zoning Administrator shall establish a Floodplain District and an official map. The Floodplain District will be considered to be the most extensive of the following: FEMA floodplain, flooding soils, and wetlands. The Zoning Administrator may also utilize available historic data in determining the limits of the Floodplain District, including without limitation photographs and high water elevations.
- (2) Within the FEMA floodplain, the source of this delineation shall be at a minimum the most recent effective Flood Insurance Study and Digital Flood Insurance Rate Map (D-FIRM) for Frederick County, prepared by the Federal Emergency Management Agency, as amended.
- (3) The FEMA floodplain is established with emphasis on the 100-year flood elevation where defined rather than the area graphically delineated on the official floodplain maps. Where map boundaries and elevations disagree, elevations prevail, with no approval from FEMA required.
- (4) The delineation of the FEMA floodplain may be revised, amended and modified by the Zoning Administrator in compliance with the National Flood Insurance Program (NFIP) and the Maryland Department of the Environment, when:
- (a) There are changes through natural or other causes to flood elevations and boundaries; or
- (b) Changes are indicated by detailed hydrologic and hydraulic information and studies.
- (c) As soon as practicable, but not later than 6 months after the date such information becomes available, the Zoning Administrator shall notify the Federal Insurance Administrator of the changes by submitting technical and scientific data in accordance with 44 CFR part 65. All such changes shall be subject to the review and prior approval of the Federal Emergency Management Agency and the Maryland Department of the Environment.

- (5) The location and limits of flooding soils are determined by the Soil Survey of Frederick County and Web Soil Survey, as amended.
- (6) The location and limits of wetlands are determined by the Maryland Department of the Environment Wetland and Waterways Program.
- (7) Any dispute of the FEMA floodplain shall be appealed to Federal Emergency Management Agency through the Zoning Administrator. Disputes regarding wetlands shall be appealed to the Maryland Department of the Environment.

(Ord. 92-04-039, 2-13-1992; Ord. 07-29-469, 9-4-2007; Ord. 08-26-502, 10-14-2008; Ord. 10-31-566, 12-21-2010)

## **№** 1-19-9.110. ACTIVITIES WITHIN FLOODPLAIN DISTRICT.

#### (A) General.

- (1) A permit is required for all development within the FEMA floodplain, flooding soils, and wetlands. It shall be granted only after all necessary permit applications are approved by Federal, State, and County agencies.
- (2) The issuance of any permits by the State of Maryland or Corps of Engineers does not permit development within the Floodplain District except in conformity with provisions of this chapter.
- (3) The Zoning Administrator may use tax assessment records to determine substantial improvement when an improvement is proposed to an existing structure. Substantial improvement will be calculated on a cumulative basis.
- (4) Any substantial improvement or replacement approved shall be in conformance with the requirements of the permit program of the Maryland Department of the Environment and the U.S. Army Corps of Engineers.
- (5) Within the FEMA floodplain, substantial improvements, substantial improvements due to existing structures substantial damage, replacement or relocated dwelling units (including manufactured homes), the addition of accessory buildings, the expansion or replacement of an existing nonconforming use, or development of an existing parcel of record lying totally within the FEMA floodplain, require approval by the Board of Appeals (§ 1-19-9.120 (A)).
- (6) Within a danger reach area, the replacement of dwelling units (including manufactured homes) damaged by flood, the substantial improvement of habitable area within existing structures, the addition of habitable area to an existing structure, or development of an existing parcel of record lying partially within a danger reach area require approval by the Board of Appeals (§ 1-19-9.220(A)).

#### (B) Land development.

(1) FEMA Floodplain and Wetlands. Within the FEMA floodplain and wetlands, no new development, including parking lots impervious to water, or fill, or excavation operations in conjunction with development will be permitted. Substantial improvements, substantial improvements due to existing structures substantial damage, replacement or relocated dwelling units (including manufactured homes), the addition of accessory buildings, the expansion or

replacement of an existing nonconforming use, or development of an existing parcel of record lying totally within the FEMA floodplain shall be permitted only with approval by the Board of Appeals. Open shelters, pole-type structures (open on all sides and without walls), open fences and recreational uses, and recreational equipment which are not contained in a building, are exempt from the requirements of this section upon obtaining a zoning certificate in order to ensure the type of construction will not alter the flood elevation, except as outlined in § 1-19-9.110(D).

- (2) Watershed Management Plans. All substantial improvements, replacements or other developments within the FEMA floodplain shall be consistent with watershed management plans where such plans exist. Structures slated for acquisition under future flood hazard management projects may not be improved or replaced.
- (3) Floodplain and stream setbacks. A minimum setback of 25 feet shall be provided from all Floodplain district boundaries, except as otherwise approved through the mitigation process described in § 1-19-9.110(B)(7), or a minimum setback of 50 feet shall be provided from the bank of any perennial or intermittent stream, whichever is greater. All setback areas shall be maintained or planted with natural vegetation.
- (4) Subdivisions and site plans. All new subdivisions or site plans shall have stream setbacks as well as the 100-year floodplain and floodway delineations and elevations, as reflected on Frederick County's Flood Insurance Study and Digital FIRM published by FEMA clearly shown and certified by a registered professional engineer, registered professional land surveyor, or registered property line surveyor. The plan shall demonstrate that development will avoid the FEMA floodplain. No new lots shall be created unless they have adequate buildable area outside of designated FEMA floodplain areas.
- (5) Approximate FEMA floodplain. For development proposed in the approximate floodplain Zone A (no water surface elevations or floodway data provided), the applicant must use the best available information to determine the elevation of the 100-year flood and the extent of the floodway, and must delineate these on the site plan submitted for approval. For new subdivisions, the applicant must have the 100-year flood elevations certified by a registered professional engineer based on hydrologic and hydraulic analyses which include a floodway analysis. For individual lot development if no data are available, methods described in FEMA Publication #265 "Managing Floodplain Development in Approximate Zone A Areas" should be used to determine the 100-year flood elevation at the site.
- (6) *Floodway restrictions*. No new development shall be permitted in the floodway except as provided in § 1-19-9.110(D).
- (7) *Flooding soils*. No new development shall be permitted in areas of flooding soils unless approved through a mitigation process including the following:
- (a) Submission by the applicant of a geotechnical report and soils report prepared by a registered professional engineer in the State of Maryland and a soil scientist with full membership in a State Soils Professional Organization or that meets certification requirements. The report shall address soil characteristics to include flooding frequency, duration, and surface water depth.

- (b) Determination of buildable areas by the [Division of Permitting and Development Review] COMMUNITY DEVELOPMENT DIVISION.
- (c) Submission by the applicant of a mitigation plan for approval by the [Division of Permitting and Development Review] COMMUNITY DEVELOPMENT DIVISION. The mitigation plan shall include such factors as:
- 1. Retention pond releasing at predevelopment rates to include capacity for temporary inundation as determined in  $\S 1-19-9.110$  (B)(7)(a).
- 2. Use of techniques to reduce off-site runoff and ensure adequate groundwater recharge.
- (C) *Building standards*. Development within the FEMA floodplain shall meet the standards as provided in subsection 1 through 4 below. Replacement or relocated dwelling units (including manufactured homes) or substantial improvements due to existing structures substantial damage or addition of accessory buildings will not be permitted without the approval of the Board of Appeals and then only if the lowest floor is elevated 1 foot above the elevation of the 100 year flood and the dwelling or improvement is placed on a permanent foundation or securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement.
- (1) Elevation.
- (a) The elevation of the lowest floor (see definition of "lowest floor") of all substantially improved or replaced structures shall be at least 1 foot above the elevation of the 100 year flood. Basements are prohibited.
- (b) All applicants shall agree in writing to provide an elevation certificate completed by a registered professional engineer or surveyor to certify the lowest floor (as built) of any structure is elevated above the 100-year flood. An Elevation Certificate must be submitted before a Zoning Certificate may be approved.
- (2) *Enclosures below lowest floor*. The relocation or substantial improvements to existing structures or the addition of accessory structures containing fully enclosed areas below the lowest floor (including, but not limited to crawl spaces, solid footings and continuous foundations) shall be designed to meet or exceed the following minimum criteria:
- (a) A minimum of 2 openings having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided.
- (b) The bottom of all openings shall be no higher than 1 foot above grade.
- (c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (3) *Anchoring*. All structures shall be firmly anchored in accordance with acceptable engineering practices to prevent flotation, collapse, and lateral movement during flooding. All large pipes and storage tanks located below the Flood Protection Elevation shall be firmly anchored to prevent flotation.
- (4) Utilities.

- (a) Electric: All electric utilities to the building side of the meter, both interior and exterior to the building, must comply with all requirements of this chapter. Distribution panel boxes must be at least 2 feet above the Flood Protection Elevation. All outlets and electrical installations, such as heat pumps, air conditioners, water heaters, furnaces, generators, distribution systems, including duct work, must be installed at or above the Flood Protection Elevation. Replacement HVAC equipment shall be elevated to the Flood Protection Elevation unless proven to be impractical.
- (b) Plumbing: Toilets, sinks, showers, water heaters, pressure tanks, furnaces, and other permanent plumbing installations must be installed at or above the Flood Protection Elevation.
- (c) Gas: Gas meters and gas appliances must be installed at or above the Flood Protection Elevation.
- (d) Fuel tanks: All gas (propane) tanks installed in the floodplain are required to be anchored to prevent flotation in accordance with the National Fire Protection Association Code 58. All tanks installed in floodplain areas shall be either elevated or adequately anchored to prevent flotation up to the Flood Protection Elevation. All fuel oil storage tanks installed in the floodplain must be either elevated or securely anchored to prevent flotation up to the Flood Protection Elevation. Vent pipes must extend to or above the Flood Protection Elevation and fill caps below the Flood Protection Elevation must be screw type with a tight fitting gasket to prevent mixing of water with oil.
- (e) Water supply and sanitary facilities: Water supply distribution and sanitary disposal collection systems must be designed to minimize or eliminate the infiltration of flood waters into the systems or discharges from the systems into flood waters and shall be located and constructed so as to minimize or eliminate flood damage. On-site sewage disposal systems shall meet these same standards.
- (D) *Exemptions*. This section does not prohibit the placement or repair of road crossings; water impoundments for stormwater management; retention areas; agricultural activities not requiring zoning certificate approval; public utility lines; environmental mitigation projects; or other minor wetland fill activities (less than 5,000 square feet of wetland impact) within designated FEMA floodplain, flooding soils, or wetlands. These floodplain activities must obtain all federal, state and local permits required and for minor wetland fills receipt of a letter of no significant impact from the responsible federal or state agency.

(Ord. 92-04-039, 2-18-1992; Ord. 92-13-048, 7-7-1992; Ord. 93-13-077, 6-1-1993; Ord. 07-29-469, 9-4-2007; Ord. 08-21-497, 8-5-2008; Ord. 08-26-502, 10-14-2008; Ord. 10-31-566, 12-21-2010)

#### § 1-19-9.120. PROCEDURES FOR ACTIVITIES WITHIN THE FEMA FLOODPLAIN.

(A) The Board of Appeals shall review the following activities within the FEMA floodplain: substantial improvements, substantial improvements due to existing structures substantial damage, replacement or relocated dwelling units (including manufactured homes), the addition of accessory buildings, the expansion or replacement of an existing nonconforming use, or development of an existing parcel of record lying totally within the FEMA floodplain. Applications to allow new structures or fill to be placed in the floodway shall not be considered.

The Board of Appeals may grant an application for approval for activity within the FEMA floodplain when the Board specifically finds that:

- (1) Failure to grant the application for approval would result in exceptional hardship to the applicant; and
- (2) The granting of an application for approval would not increase flood heights, add threats to public safety, result in extraordinary public expense, create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and
- (3) The granting of an application for approval would not allow new structures or fill to be placed in the floodway; and
- (4) The granting of an application for approval is the minimum necessary considering the flood hazard to provide relief and that public funds may not be available to mitigate the results of the approval; and
- (5) All new structures and substantial improvements to existing structures will have the lowest floor elevated to the greatest extent possible with respect to the 100 year flood elevation, but at least to the Flood Protection Elevation, and a FEMA elevation certificate filed. In addition, all structures, including manufactured homes, must be firmly anchored in accordance with acceptable engineering practices (i.e., FEMA publication 85 "Manufactured Home Installation in Flood Hazard Areas"); and
- (6) The granting of a permit by the Maryland Department of the Environment if located within a FEMA floodplain; and
- (7) The action is duly recorded with the deed of the property on which the application for approval is granted prior to the issuance of a building permit. Any expense incurred by the recording is the responsibility of the applicant.
- (8) The Board of Appeals shall not grant approval of the above activities for lots containing floodplain created after June 6, 1989.
- (B) The Board of Appeals will notify the applicant of approval in writing through the Zoning Administrator. The decision of approval and findings shall include the notification that:
- (1) The issuance of a decision to allow construction of a structure below the 100 year flood level will result in increased premium rates for flood insurance;
- (2) Such construction below the 100 year flood level increases risks to life and property.
- (C) The Board of Appeals will maintain a record of all decisions, including justification for their issuance, and the Zoning Administrator will report such decisions in the county biennial reports submitted to the Federal Emergency Management Agency.

(Ord. 92-04-039, 2-18-1992; Ord. 07-29-469, 9-4-2007; Ord. 08-26-502, 10-14-2008)

# **■§ 1-19-9.130. WATERCOURSE RELOCATION OR ALTERATION.**

In the event that a proposed development requires the relocation or alteration of a watercourse, evidence shall be presented as part of the permit application that all adjacent communities and

the Maryland State NFIP Coordinating Office, Maryland Department of the Environment have been notified by certified mail and have approved of the proposed alteration or relocation. Copies of these notifications shall then be forwarded to the Federal Emergency Management Agency, Federal Insurance Administration. In addition, the developer shall assure the Zoning Administrator, in writing, that the flood-carrying capacity within the altered or relocated portion of the watercourse in question will be maintained.

(Ord. 92-04-039, 2-18-1992; Ord. 07-29-469, 9-4-2007; Ord. 08-26-502, 10-14-2008)

### **DIVISION 2. DANGER REACH AREAS**

### **■§ 1-19-9.200. DANGER REACH AREAS.**

A danger reach area shall be defined as the Lake Merle Danger Reach Area as specified in the Greenhorn & O'Mara study dated 1995 and approved by the Maryland Department of the Environment on May 8, 1995.

(Ord. 96-02-154, 2-6-1996; Ord. 07-29-469, 9-4-2007; Ord. 08-26-502, 10-14-2008)

## **№ § 1-19-9,210. ACTIVITIES WITHIN DANGER REACH AREAS.**

- (A) Except as provided for herein, within the danger reach area, no land development or fill or excavation operations in conjunction with land development including parking lots impervious to water will be permitted which will increase the flood elevation or expand the danger reach area.
- (B) No new lots shall be created which are encumbered by the danger reach area, unless sufficient building area is available outside the danger reach area.
- (C) For all new construction a minimum horizontal setback of 10 feet or a vertical setback of plus 5 feet shall be provided from all danger reach area boundaries and shall be maintained or planted with natural vegetation, unless a variance is obtained from the Board of Appeals.
- (D) All new subdivisions or site plans shall have danger reach area boundaries delineated and certified by a registered professional engineer, registered professional land surveyor or registered property line surveyor, where applicable.
- (E) The above requirements do not prohibit the placement or repair of road or driveway crossings, water impoundments for stormwater management, retention areas, agricultural activities, public utility lines, environmental mitigation projects, or other minor wetland fill activities (less than 5,000 square feet of wetland impact) within designated danger reach areas. The owner must obtain all federal, state and local permits required for these activities.

(Ord. 96-02-154, 2-6-1996; Ord. 07-29-469, 9-4-2007; Ord. 08-26-502, 10-14-2008)

## **■§ 1-19-9.220. PROCEDURES FOR ACTIVITIES WITHIN DANGER REACH AREAS.**

(A) Within the danger reach area the Board of Appeals may grant an application for approval for the replacement of dwelling units (including manufactured homes) damaged by flood, the substantial improvement of habitable area within existing structures, the addition of habitable

area to an existing structure, or development of an existing parcel of record lying partially within a danger reach area. The Board of Appeals may grant an application for approval for activity within a danger reach area when the Board specifically finds that:

- (1) Failure to grant the variance would result in exceptional hardship to the applicant; and
- (2) The granting of an application for approval would not increase flood heights, expand the danger reach area, or threaten public safety; and
- (3) The granting of an application for approval is necessary considering the flood hazard to provide relief; and
- (4) All new structures and substantial improvements to existing structures will have the lowest floor elevated to the greatest extent possible with respect to the danger reach elevation and an elevation certificate is filed with the Zoning Administrator; and
- (5) A waterway construction permit, or other approval, by the Maryland Department of the Environment if improvements are to be located within an area subject to state regulatory authority; and
- (6) If any portion of the improvement is within the danger reach area, the action shall be recorded with the deed to the property on which an application for approval is granted prior to the issuance of a building permit. Any expense incurred by the recording is the responsibility of the applicant.
- (B) The Board of Appeals may approve within the danger reach area the substantial improvement of habitable area within existing structures or the addition of habitable area to an existing structure or permit development of an existing parcel of record lying partially within a danger reach area if:
- (1) The (lowest) habitable floor is elevated at least 1 foot above the elevation of the danger reach area and the dwelling or improvement is placed on a permanent foundation system to resist flotation, collapse or lateral movement; and
- (2) The relocation or substantial improvements to existing structures or the addition of accessory structures containing fully enclosed areas below the lowest floor (including, but not limited to crawl spaces, solid footings and continuous foundations) shall be designed to meet or exceed the following minimum criteria:
- (a) A minimum of 2 openings having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided.
- (b) The bottom of all openings shall be no higher than 1 foot above grade.
- (c) Openings may be equipped with screens, louvers, valves, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- (C) The Board of Appeals will notify the applicant of approval in writing through the Zoning Administrator. The decision of approval and findings shall include the notification that:

- (1) The issuance of a decision to allow construction of a structure within the danger reach area may result in increased premium rates for insurance;
- (2) Such construction in the danger reach area may increase risks to life and property.
- (D) The Board of Appeals shall not grant approval to build within the danger reach area for lots created after the enactment of these provisions.
- (E) With respect to existing lots affected by the danger reach area, the Zoning Administrator may, by the issuance of a zoning certificate, approve the following:
- (1) The location on a lot of open shelters, pole-type structures (open on all sides and without walls), open fences and recreational uses, and recreational equipment which are not contained in a building, provided that the type of construction will not increase the flood elevation or expand the danger reach area;
- (2) The replacement of a habitable structure or portion thereof damaged or destroyed other than by flooding;
- (3) The expansion of a structure to add nonhabitable improvements, including, but not limited to, porches, decks, patios, etc., when such improvements will be located within the danger reach area, provided that the construction will not increase the flood elevation or expand the danger reach area;
- (4) The expansion of a structure to create additional habitable areas, provided that the additional habitable area does not fall within the danger reach area.

(Ord. 96-02-154, 2-6-1996; Ord. 07-29-469, 9-4-2007; Ord. 08-26-502, 10-14-2008)

#### **DIVISION 3. WET SOILS**

# **■§ 1-19-9.300. STRUCTURES WITH BASEMENTS NEAR WET SOILS.**

- (A) (1) No zoning certificate or building permit shall be issued for construction of a residential structure with a basement if proposed on or within 100 feet of "wet soils" until a soils delineation report is prepared by a licensed soils scientist or professional engineer registered in the State of Maryland. The soils report shall be submitted for review prior to the Zoning Administrator's approval of the certificate or permit unless such a report was completed at an earlier stage of the development review process.
- (2) If a residential structure(s) with a basement(s) is proposed within "wet soils," the developer must:
- (a) Perform one of the following:
- 1. Construct a gravity drainage system in accordance with the BOCA Code; or
- 2. Utilize another similar solution acceptable to the permits office; or
- 3. Submit a geotechnical report by a registered professional engineer in the State of Maryland; and

(b) Place a note on the plat requiring that all construction shall be in conformance with the approved solution.

(Ord. 77-1-78, § 40-31, 1-24-1977; Ord. 78-12-110, § 2, 5-29-1978; Ord. 96-17-169, 8-6-1996; Ord. 08-26-502, 10-14-2008; Ord. 10-31-566, 12-21-2010)

#### **DIVISION 4. WATERBODY BUFFER REQUIREMENTS**

# **凤** § 1-19-9.400. WATERBODY BUFFER REQUIREMENTS.

A parcel, lot, or tract of land submitted to Frederick County for subdivision or resubdivision review and approval shall be subject to the following waterbody buffer requirements. The requirements in this section shall not apply to existing structures.

- (A) All subdivision plans shall have waterbody buffers clearly shown and certified by a professional engineer, registered professional land surveyor, or registered property line surveyor. To meet the requirements of this section, applicants shall use best available data.
- (B) All waterbody buffer areas shall be maintained in a natural vegetative state unless otherwise utilized for reforestation or afforestation to satisfy forest resource ordinance obligations or for environmental enhancement projects administered or approved by federal, state, or local government agencies.
- (C) Waterbody buffer widths shall be determined in accordance with the requirements described below and shall apply to each side of a waterbody. As used herein, the term "moderate slope" means a slope with a gradient of 15% to less than 25%; and the term "steep slope" means a slope with a gradient of 25% or greater.
- (1) The waterbody buffer width shall be derived by calculating the gradient of the slope within a 150-foot cross-section on each side of a waterbody, drawn perpendicular to the direction of water flow. Cross-sectional measurements shall be taken every 50 feet along the bank(s) of the waterbody.
- (2) The minimum waterbody buffer shall be 100 feet.
- (3) If 60% or more of the 150-foot cross-section includes moderate (15% to <25%) slopes, then the waterbody buffer shall be increased to 125 feet for that side of the waterbody.
- (4) If 60% or more of the 150-foot cross-section includes steep (25% or greater) slopes, then the waterbody buffer shall be increased to 150 feet, for that side of the waterbody.
- (5) Waterbody buffer widths may be greater than those provided herein if floodplain and wetlands extend beyond the waterbody buffer area.
- (D) No buildings, structures, or activities requiring clearing or grading over 5,000 square feet will be permitted in waterbody buffers, except for stormwater management facilities, structures and appurtenant conveyances; environmental restoration or mitigation projects; open shelters; pole-type structures (open on all sides and without walls); fences and recreational uses (including bikeways and trails), and recreational equipment which are not contained in a building. Utilities,

public and private roads, and driveways are permitted in the waterbody buffer, but must meet the requirements of subsection (F) below or qualify for the exemption in subsection (G) below.

- (E) Sewage disposal systems, including but not limited to septic tanks and their associated piping, drainfields, septic reserve areas or sand mound systems, receiving approval after August 15, 2008 shall be located outside the waterbody buffer area. If Frederick County Health Department-administered percolation tests outside the waterbody buffer fail and the applicant can demonstrate that an alternative location outside the waterbody buffer is not feasible, the Frederick County Health Department may approve a sewage disposal system within the waterbody buffer area provided all Code of Maryland regulations are met.
- (F) (1) Public and private roads, driveways, and utilities may be permitted in the waterbody buffer only if the applicant has clearly demonstrated that no feasible alternative exists, and that every reasonable effort has been made to locate the public and private roads, driveways, and utilities outside of the buffer area.
- (2) In order to locate public and private roads, driveways, or utilities in the waterbody buffer, the applicant must submit a justification statement to the appropriate county agency or division, including: (a) an evaluation of at least one alternative location for the requested public and private roads, driveways, and utilities; and (b) the reasons why the alternative location or locations are not feasible.
- (3) Public and private roads, driveways, and utilities that are allowed in the buffer area must be located to create the least disturbance to existing vegetation, grade, and wetlands.
- (4) Where feasible, utility easements shall be set back a minimum of 50 feet from all waterbodies or outside wetlands and their buffers, whichever is greater.
- (5) Utility, bikeway or trail easements or rights-of-way within the waterbody buffer shall be colocated whenever possible.
- (G) Upgrades, maintenance or repair of existing public and private roads, driveways, utilities, bikeways and trails shall be exempt from the requirements of subsection (F) above.
- (H) Sediment and erosion control structures or facilities may be allowed as a temporary use in the waterbody buffers. At a minimum, grading must be at least 25 feet from the bank of the waterbody and from any wetlands.
- (I) Deposition or stockpiling of any material, including excavated rock, topsoil, stumps, shrubs, or any building or construction material, within the designated waterbody buffer is prohibited. However, stockpiling which is necessary to restore an area within a utility easement or temporary sediment control area may be approved by the appropriate county agency or division on a temporary basis.

(Ord. 07-24-464, 7-10-2007; Ord. 07-29-469, 9-4-2007; Ord. 08-21-497, 8-5-2008; Ord. 08-26-502, 10-14-2008; Ord. 13-23-651, 10-31-2013)

<u>Comment</u>: This Section shall apply to applications for subdivision or resubdivision approved after November 10, 2013. This Section shall <u>not</u> apply to: addition plats; correction plats; outlot plats; revisions to previously approved subdivision plats that do not increase the number of lots;

extensions or re-approvals of previously approved subdivision plats that have not expired; and submission of final plats for recordation, provided that the final plat is consistent with the approved preliminary subdivision plat.

## ARTICLE X: OPTIONAL METHODS OF DEVELOPMENT

#### Section

#### Division 1. Cluster Development

1-19-10.100 Purpose
1-19-10.100.1 Scope
1-19-10.100.2 Districts where permitted
1-19-10.100.3 Density determination and design requirements
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#### Division 2. Cohousing Development

1-19-10.200 Purpose

1-19-10.200.1 Scope

1-19-10.200.2 Districts where permitted

1-19-10.200.3 Density determination and design requirements

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1-19-10.200.5 Procedure

1-19-10.200.6 Access drives and off-street parking

#### Division 3. Planned Commercial/Industrial Development

1-19-10.300 Planned commercial/industrial development

#### Division 4. Mineral Mining District

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#### Division 10. Open Space Recreation Floating Zoning District

<u>1-19-10.1000</u> Open Space Recreation Floating Zoning District (OSR)

#### **DIVISION 1. CLUSTER DEVELOPMENT**

# **■**§ 1-19-10.100. PURPOSE.

The purpose of cluster development is to provide a method of development that permits variation in lot sizes without an increase in the overall density of population; that allows home buyers a choice of lot sizes according to their needs; that preserves green space, tree cover, scenic vistas, natural drainageways, or preserves features of outstanding national topography; in order to prevent soil erosion and provide green areas for rest and recreation.

(Ord. 77-1-78, § 40-71(A), 1-24-1977; Ord. 08-26-502, 10-14-2008)

# **■**§ 1-19-10.100.1. SCOPE.

The provisions of this division shall apply only to cluster developments. MPDU projects are excluded from the provisions of this division.

(Ord. 02-26-322, 11-21-2002; Ord. 08-26-502, 10-14-2008)

# **■§ 1-19-10.100.2. DISTRICTS WHERE PERMITTED.**

In all R Districts, the Planning Commission in approving subdivision plats, may permit modifications in lot area, lot width, yards (building restriction areas) including zero lot lines, or other requirements. Use regulations are governed by the zoning district in which the development is located. Cluster development is not permitted unless public water and public sewer are provided. However, if public water cannot be feasibly provided or is not readily available and the developer can prove that individual water supplies are feasible by providing a hydrogeologic study and drilling sufficient test wells, then the Planning Commission may approve a cluster development with public sewer and individual well with a minimum lot size of 12,000 square feet. In the event that cluster development is approved by the Planning Commission using individual wells, no building permits shall be issued for any lot until after a well has been drilled and approved by the Frederick County Health Department under its regulations.

(Ord. 77-1-78, § 40-71(B), 1-24-1977; Ord. 82-11-255, 6-8-1982; Ord. 84-6-302, 4-3-1984; Ord. 89-2-533, 1-3-1989; Ord. 08-26-502, 10-14-2008)

# **■§ 1-19-10.100.3. DENSITY DETERMINATION AND DESIGN REQUIREMENTS.**

The average dwelling unit density will be no greater than the permitted density for the district in which the units are located. For the purposes of this division, *DENSITY* means the maximum number of dwelling units which could be built on net developable land area in the zoning district. Net developable land is that land remaining after flooding soils areas and rights-of-way for principal highways have been deducted from the gross site area.

(Ord. 77-1-78, § 40-71(C), 1-24-1977; Ord. 07-29-469, 9-4-2007; Ord. 08-26-502, 10-14-2008)

# **■§ 1-19-10.100.4. GREEN AREA SPACE REQUIREMENT.**

Reduction of individual lot areas will be reserved as green area. The county may accept the conveyance of the green areas or it shall be conveyed to a nonprofit homes association.

(Ord. 77-1-78, § 40-71(D), 1-24-1977; Ord. 08-26-502, 10-14-2008)

## **■** § 1-19-10.100.5. PROCEDURE.

The procedure to obtain approval of plats under residential cluster development is as follows.

- (A) A Concept Plan is to be submitted to the Planning Commission at least 60 days prior to the Commission meeting at which it is to be considered which shows:
- (1) The type of dwelling unit (single-family, townhouse, garden apartment, etc.) and building restriction lines; and
- (2) Street layout; and
- (3) Green area system; and
- (4) Vicinity map (Scale: no smaller than 1 inch equals 2,000 feet); and
- (5) Topography with minimum 10 foot contours (USGS topographic maps are permitted for the concept plan); and
- (6) Number of acres in the entire tract; and
- (7) Overall dwelling unit density.
- (B) If the concept plan is approved by the PLANNING Commission, the developer will then proceed with platting of the development in accordance with the subdivision regulations. Final plats filed on cluster development shall bear a statement indicating that the land lies within an approved residential cluster development.
- (C) In addition, the development is subject to the following conditions.
- (1) The development of land within the cluster is permitted only in accordance with the approved final plat.
- (2) The agreements concerning the ownership and maintenance of open space land will be recorded simultaneously with the final plat.

(Ord. 77-1-78, § 40-71(E), 1-24-1977; Ord. 00-21-263, 7-18-2000; Ord. 05-27-388, 10-25-2005; Ord. 08-26-502, 10-14-2008)

#### Cross reference:

Subdivisions, see Chapter 1-16

#### **DIVISION 2. COHOUSING DEVELOPMENT**

## **№ § 1-19-10.200. PURPOSE.**

The purpose of cohousing development is to provide a method of development that promotes social interaction, permits a quality living environment, safeguards children, conserves the natural environment, and conserves energy. The intent is to encourage resident participation in design, and planning, as well as self-management and community, in a compact and orderly development.

(Ord. 91-31-031, 11-19-1991; Ord. 08-26-502, 10-14-2008)

## **■**§ 1-19-10.200.1. SCOPE.

The provisions of this division shall apply only to cohousing developments. Such developments shall consist of no more than 35 units, not including common facilities. An incorporated development organization consisting of a majority of the intended number of residents of the development shall be required for application under these provisions. All cohousing developments are subject to the requirements of § 1-19-8.620 through § 1-19-8.620.6.

(Ord. 91-31-031, 11-19-1991; Ord. 02-26-322, 11-21-2002; Ord. 08-26-502, 10-14-2008)

### **■§ 1-19-10.200.2. DISTRICTS WHERE PERMITTED.**

Cohousing developments are permitted in all R Districts. The Planning Commission in approving subdivision plats may permit modifications in lot areas, lot width, yards (building restriction areas), including zero lot lines, or other requirements consistent with meeting the purposes of this division. Cohousing development is not permitted unless community water and sewer are provided, or such other available ecologically sound methods of water distribution and sewage disposal as may be approved by the county and state authorities. Individual wells and septic systems are not allowed.

(Ord. 91-31-031, 11-19-1991; Ord. 08-26-502, 10-14-2008)

# **■§ 1-19-10.200.3. DENSITY DETERMINATION AND DESIGN REQUIREMENTS.**

- (A) The average dwelling unit density will be no greater than the permitted density for the districts in which the units are located.
- (B) For the purpose of this division, **DENSITY** means the maximum number of dwelling units which could be built on net developable land area in the zoning district. Net developable land is that land remaining after flooding soils areas and rights-of-way for principal highways have been deducted from the gross site area.
- (C) Attached housing is permitted in approved co-housing development projects in all R Districts under this division, provided any attached units comprise blocks of no more than 6 units each.

(Ord. 91-31-031, 11-19-1991; Ord. 07-29-469, 9-4-2007; Ord. 08-26-502, 10-14-2008)

# **■§ 1-19-10.200.4. GREEN AREA SPACE REQUIREMENT.**

Reduction of individual lot areas will be reserved as green area, which shall be conveyed to a nonprofit home association comprised of the homeowners of the development. The amount of green space shall be a minimum of 60% of the total land area of the development. Such green area shall not be impervious or include any parking areas, vehicular access or circulation driveways and shall otherwise meet the definition of green area in this case.

(Ord. 91-31-031, 11-19-1991; Ord. 08-26-502, 10-14-2008)

## **■**§ 1-19-10.200.5. PROCEDURE.

The procedure to obtain approval of a cohousing development is as follows.

- (A) A Concept Plan is submitted to the Planning Commission at least 45 days in advance of the meeting at which is proposed to be considered which shows:
- (1) The type of dwelling units, the common facilities, and building restriction lines;
- (2) Vehicular and pedestrian street layout;
- (3) Green area system;
- (4) Vicinity map (scale no smaller than 1 inch equals 2,000 feet);
- (5) Number of acres in the entire tract;
- (6) Overall dwelling unit density; and
- (7) The name of the incorporated resident development organization.
- (B) The property in question shall be posted for a minimum of 30 days prior to the Planning Commission meeting.
- (C) If the Concept Plan is approved by the PLANNING Commission, the developer will then proceed in accordance with the regulations. Final plats on cohousing development shall bear a statement that the land lies within an approved cohousing development.
- (D) In addition, the development is subject to the following conditions.
- (1) The development of land within the cohousing development is permitted only in accordance with the approved final plat.
- (2) The agreements concerning the ownership and maintenance of open (green) space land will be recorded simultaneously with the final flat.

(Ord. 91-31-031, 11-19-1991; Ord. 00-21-263, § 1, 7-18-2000; Ord. 08-26-502, 10-14-2008)

# **■§ 1-19-10.200.6. ACCESS DRIVES AND OFF- STREET PARKING.**

The intent of this division is to encourage the removal of cars and roads to the periphery of the development. Therefore all parking shall be off-street parking and must be within the boundaries of the cohousing property. There shall be no minimum distance from a parking area to the home

which it serves. Suitable emergency access lanes shall be provided to permit entry of fire and rescue vehicles to the immediate vicinity of each unit. All access points to state and county roads must comply with the requisite access permit requirements.

(Ord. 91-31-031, 11-19-1991; Ord. 08-26-502, 10-14-2008)

#### **DIVISION 3. PLANNED COMMERCIAL/INDUSTRIAL DEVELOPMENT**

# **■§ 1-19-10.300. PLANNED COMMERCIAL/INDUSTRIAL DEVELOPMENT.**

- (A) Purpose and intent.
- (1) Encourage concentration of complementary uses grouped adjacent to major thoroughfares, thus limiting sprawling strip commercial and industrial development.
- (2) Provide for well-planned development on sites with adequate frontage and depth to permit controlled access and maximum convenience and efficiency for users of such facilities.
- (3) Allow for more than 1 principal use or building on a single lot in the GC, ORI, LI and GI zoning districts where due to the size and location of the development, and its relationship to the surrounding properties, flexibility of planning may be permitted without disturbance to the harmony of the neighborhood.
- (B) Review and approval.
- (1) The Planning Commission shall make the final determination as to whether a planned commercial/industrial development shall be approved. Review and approval of a planned commercial/ industrial development shall include a preapplication conference and applicable site development plan or subdivision approval.
- (2) Preapplication conference. Prior to application submission, a preapplication conference shall be held with the Community Development Division. The applicant shall submit a preapplication concept including information in a format acceptable to the Community Development Division, including: a description of the tract of land for which the planned commercial/industrial development is proposed; existing and proposed land uses; existing historic and natural features; or other information as required to adequately evaluate the application.
- (3) In making a determination as to whether the development shall receive approval, the Planning Commission shall consider the purpose and intent of this section as well as the following design standards, which shall serve as a guide in reviewing the plan and setting conditions to be placed upon the development. The following design standards may be modified as necessary by the Planning Commission in order to achieve the purpose and intent of this section. Subdivision plats shall comply with subdivision regulations and conditions of site development plan approval.
- (C) Design standards.
- (1) Layout.
- (a) In general, the plan shall provide a unified and organized arrangement of buildings, service areas, parking and landscaped open space. Buildings shall be so grouped to provide a safe and

efficient arrangement of land use, pedestrian access, infrastructure and transportation circulation systems reflective of the underlying zoning district, and existing and planned development.

- (b) Building placement shall consider future subdivision including planned road networks. However, this does not require the project to meet future subdivision requirements.
- (2) *Use*. All proposed uses shall be identified on the submitted site plan. The uses proposed within the planned commercial/industrial development shall be in accordance with the existing, underlying zoning. More than 1 principal use or building may be approved on the site.
- (3) Bulk regulations.
- (a) *Project area*. A planned commercial/industrial development may only be approved for tracts of land with underlying zoning of GC, ORI, LI, or GI.
- (b) Setbacks and height shall be established by the Planning Commission based upon the underlying zoning, the location of the proposed development within the county, consideration of existing and planned development surrounding the proposed development, and applicable county community and corridor plans.
- (4) *Building separation*. Unless buildings are built to a common party wall, they shall be separated by a minimum distance of not less than 10 feet.
- (5) *Minimum off-street parking requirements*. Off-street parking shall be provided and may be modified in accordance with § 1-19-6.220.
- (6) Minimum landscaping, screening, lighting, and signage. Landscaping, screening, lighting, and signage shall be provided in accordance with  $\frac{1-19-6.300}{6.400}$ , and  $\frac{1-19-6.340}{6.400}$ , and  $\frac{1-19-6.500}{6.400}$ .
- (7) Planned commercial/industrial development shall comply with applicable supplementary district regulations as provided in § <u>1-19-7.510</u>, § <u>1-19-7.600</u>, § <u>1-19-7.610</u>, and § <u>1-19-7.620</u> consistent with the underlying zoning.
- (D) *Covenants*. Agreements to provide for the use and maintenance of all common use areas shall be reviewed and approved by the Planning Commission and recorded by the developer if subdivision occurs.
- (E) *Subdivision*. A site receiving site plan approval may only be subdivided in full compliance with Frederick County subdivision regulations.

(Ord. 80-22-174, 7-22-1980; Ord. 92-10-045, 6-9-1992; Ord. 00-21-263, § 1, 7-18-2000; Ord. 08-26-502, 10-14-2008; Ord. 11-06-572, 5-17-2011)

#### Cross reference:

Subdivision rules and regulations, see Chapter 1-16

## **DIVISION 4. MINERAL MINING DISTRICT (MM)**

# **■**§ 1-19-10.400 MINERAL MINING (MM).

## **■§ 1-19-10.400.1. PURPOSE AND INTENT.**

The Mineral Mining District (MM) is a floating zone established for the purpose of providing for the development of needed mineral resources in areas where such resources exist subject to adequate safeguard for the conservation of the environment.

(Ord. 12-08-603, 4-17-2012)

## **№ § 1-19-10.400.2. SIZE AND LOCATION.**

The Mineral Mining District (MM) shall be a floating zone which may be established where specifically designated on the Comprehensive Plan Map as appropriate.

(Ord. 12-08-603, 4-17-2012)

## **■§ 1-19-10.400.3. APPROVAL CRITERIA.**

Mining activities have the potential to adversely impact the surrounding area by virtue of the noise, dust, light, glare, vibrations and traffic generated, and may also impact groundwater supplies. Therefore, compliance with or satisfaction of the criteria contained in this division shall not require the granting of the requested reclassification. Because of the potentially adverse impact on the area, the applicant shall demonstrate the following:

- (A) In addition to the criteria set forth in § 1-19-3.110.4, the application may be granted if the [Board of County Commissioners] COUNTY COUNCIL finds that the proposed use conceptually satisfies the development standards and provisions set forth in this division to demonstrate compatibility with uses in the neighborhood where the proposed use is to be located; and
- (B) The existence of a mineral deposit which is economically important and commercially valuable, which can be extracted within the limitations set forth by this article and applicable state, federal and local laws.

(Ord. 12-08-603, 4-17-2012)

# **■** § 1-19-10.400.4. REVIEW AND APPROVAL PROCEDURES.

- (A) *Phase I justification and floating zone reclassification*. The application shall be filed and processed in the same manner as a zoning map amendment as set forth in §§ 1-19-3.110 through 1-19-3.110.6.
- (B) *Phase II execution*. The procedure for Phase II approval shall follow the site development plan review or subdivision process.
- (C) Site development plan review shall occur in accordance with §§ <u>1-19-3.300</u> through <u>1-19-3.300.4</u>. Subdivision shall occur in accordance with county subdivision regulations.

## **■**§ 1-19-10.400.5. APPLICATION.

- (A) The applicant shall submit an application in a format acceptable to the Zoning Administrator including:
- (1) A concept plan in a size acceptable to the Zoning Administrator showing the location of all lot lines; the generalized location, configuration, and description of existing and proposed land use areas including zoning and county comprehensive land use designation; the location, use, size and height of existing buildings and structures; the location of all roads, parking lots, truck loading areas, internal circulation patterns, and ingress/egress drives; haul routes and adequacy thereof; the location, configuration, and description of existing land uses surrounding the subject property including zoning and county comprehensive land use designation;
- (2) A mining and reclamation plan which meets the requirements of Md. Code Ann., Subtitle 7-6A, Natural Resources Article;
- (3) If the applicant is licensed, a copy of its Maryland surface mining license or evidence of application for the license; if the applicant is not licensed, a copy of the license of the proposed operator;
- (4) The applicant shall submit a justification statement describing the manner in which the proposed development will, at the time of site development plan review, comply with the general development standards as set forth in § 1-19-10.400.7.

(Ord. 12-08-603, 4-17-2012)

# **№** \$ 1-19-10.400.6, LAND USE.

Mineral mining, as used herein, applies to the extraction and processing of crushed stone, building stone, sand, clay, limestone, gravel deposits, and other minerals mined in a quarry type operation. The standards set forth in this section do not regulate or permit the extraction of metallic minerals, fossil fuels or other minerals not specifically enumerated above.

- (A) The uses permitted in the mineral mining district shall be agricultural activities and forestry activities permitted in the agricultural zone over which the mineral mining designation was attached and the following:
- (1) Mineral extraction and processing, including grinding, polishing, washing, mixing and sorting, stockpiling, and manufacture of finished products which contain at least 40% of material derived on site;
- (2) Borrow pits and rubble fills; and
- (3) Accessory uses operated in conjunction with the mineral extraction such as business office, caretaker's or watchman's structures, or facilities for the repair of equipment used in conjunction with the mining operation.
- (4) All accessory uses shall occupy no more than 25% of the land zoned mineral mining.

# 📮 § 1-19-10.400.7. GENERAL DEVELOPMENT STANDARDS.

- (A) The following general development standards shall be met at the time of site development plan review in addition to the approval criteria found in  $\S 1-19-3.300.4$ .
- (1) *On site*.
- (a) Minimum lot size shall be 25 acres.
- (b) Required setbacks:

	Adjacent Zoning:	
Type of Operation:	RC, R, ORI, GC, MX, RR*	A, GI, LI
Crushing or rock processing of stone, gravel or other material	300 ft.	150 ft.
Stockpile of materials	300 ft.	150 ft.
Building used for mineral mining operation	300 ft.	50 ft.

<sup>\*</sup>RR is a land use designation on the County Comprehensive Plan and for the purpose of these standards is intended to be treated as land zoned residential.

- (c) Blasting activities shall be conducted in accordance with the rules and regulations promulgated by the State of Maryland, Department of Natural Resources, Water Resources Administration, applicable to surface mining activities.
- (d) *Building height restrictions*. The height of principal use equipment shall not exceed 100 feet from grade; accessory structures shall not exceed 60 feet from grade. Agricultural buildings are exempt from height restrictions.
- (e) *Frontage*. The site shall have a minimum of 80 feet frontage on a public road meeting the collector street standards established in the comprehensive plan. Access shall not be provided by use of a panhandle.
- (f) Lot width. The lot width at the front building line shall be a minimum of 300 feet.
- (g) Open space/green areas. All setback areas shall be landscaped and maintained as green space.
- (h) *Exclusions from setbacks*. Fences, railroad access, warning signs, security/noise barriers, berms may be located within the setback areas.
- (i) Fencing. Fencing shall be required around all mineral mining and accessory activity areas.
- (j) *Lighting*. Lighting shall be designed and directed so as not to adversely impact adjoining properties and shall be specifically approved during the site plan approval process.

- (k) Access. Commercial/industrial entrance standards shall be utilized in the design of any point of access to a public road, including acceleration and deceleration lanes.
- (2) *Off-site*.
- (a) The applicant shall establish that the roads serving the site and which will be utilized as haul routes meet the collector street standards and are capable of handling the traffic to be generated by the proposed activities.
- (b) The applicant shall provide evidence as to what effect the proposed use will have on the groundwater supply and quality of all adjoining properties.
- (3) Additional regulations. Mineral mining and all activities conducted on site shall meet all federal, state and local regulations governing noise, dust, air pollutant emissions, vibrations, water appropriation and discharge.
- (B) Development standards for property with existing mineral mining zoning as of April 27, 2012.
- (1) The minimum lot size for all permitted uses within the district will be 25 acres.
- (2) All operations including storage or stockpiling of excavated or processed materials will be located a minimum of 150 feet from all property lines, except land zoned GI general industrial or land upon which other extraction or processing operations are being conducted, in which case the setback from all property lines will be 50 feet. The required setback area will be landscaped and maintained as green area.
- (3) The public road providing access to the site will meet the minimum pavement standard of a collector street as established in the County Comprehensive Plan.
- (4) Mineral mining operations shall conform to all State of Maryland permits and other approvals.

# **■§ 1-19-10.400.8. TRANSITIONAL PROVISIONS.**

- (A) Existing mineral mining developments as of April 27, 2012:
- (1) Shall retain existing approvals and conditions.
- (2) Amendments to existing Phase I or Phase II approvals, or equivalent existing approval, resulting in an increase in intensity shall comply with the provisions of this division.
- (B) Mineral mining developments with Phase I but without Phase II approval as of April 27, 2012 shall comply with the Phase II provisions of this division.
- (C) Mineral mining operations in existence as of April 27, 2012 shall retain existing approvals and shall adhere to the following development standards at the time of site development plan review:
- (1) The minimum lot size for all permitted uses within the district will be 25 acres.

- (2) All operations including storage or stockpiling of excavated or processed materials will be located a minimum of 150 feet from all property lines, except land zoned General Industrial (GI) or land upon which other extraction or processing operations are being conducted, in which case the setback from all property lines will be 50 feet. The required setback area will be landscaped and maintained as green area.
- (3) The public road providing access to the site will meet the minimum pavement standard of a collector street as established in the County Comprehensive Plan.

#### **DIVISION 5. PLANNED DEVELOPMENT DISTRICTS**

**■§ 1-19-10.500. PLANNED DEVELOPMENT DISTRICTS.** 

# **■§ 1-19-10.500.1. PURPOSE AND INTENT.**

The Planned Development Districts (Planned Unit Development and Mixed Use Development) are floating zones established to provide for new development and redevelopment within identified growth areas that result in an integrated mixture of commercial, employment, residential, recreational, civic and/or cultural land uses as provided within the appropriate Frederick County Comprehensive, Community, or Corridor Plan. These uses planned and developed as a unit are intended to:

- (A) Result in an efficient use of land and the efficient extension of public facilities;
- (B) Allow innovative design involving flexibility not permitted within Euclidean zoning districts;
- (C) Promote continuity of new development with existing development through building and site design, including consideration of architectural elements, landscape design, building placement, and street network;
- (D) Promote building and site design that reduces dependence on vehicular movement through the provision of bicycle, pedestrian, and transit friendly elements which include transportation circulation networks linking internal and external residential, commercial, employment areas, and recreation, open spaces and public facilities;
- (E) Result in an integrated mixture of uses within the Mixed Use Development District and a mixture of housing types within the Planned Unit Development District;
- (F) Promote the protection, preservation, and integration of historic resources into the planned development through reuse, adaptive use, and rehabilitation;
- (G) Promote the evaluation and integration of natural features into building and site design;
- (H) Provide development flexibility to respond to market demands.

(Ord. 10-26-561, 11-9-2010; Ord. 11-25-591, 10-27-2011)

# **■§ 1-19-10.500.2. SIZE AND LOCATION.**

- (A) The PUD District may only be established where the tract of land receiving the PUD District has a County Comprehensive Plan Land Use designation of Low Density Residential, Medium Density Residential, or High Density Residential except as provided in § 1-19-10.500.2(D) below.
- (B) The MXD District may only be established where the tract of land receiving the MXD District has a County Comprehensive Plan land use designation of Mixed Use Development, Office Research Industrial, or Limited Industrial except as provided in § 1-19-10.500.2(D) below.
- (C) The Planned Development Districts may only be established where the tract of land receiving the Planned Development District has a category of Planned Service or higher as shown on the Frederick County Water and Sewerage Plan.
- (D) The Planned Development District may be applied to a County Comprehensive Plan land use designation of Natural Resource where the Natural Resource land use designation is a minor portion of the overall tract receiving the Planned Development District. Those portions of the project having a land use designation of Natural Resource may be included in the density calculation but may only be developed as provided in § 1-19-10.500.9(B)(2).
- (E) There shall be no minimum tract size, lot area, or lot width for the Planned Development Districts.

(Ord. 10-26-561, 11-9-2010; Ord. 11-25-591, 10-27-2011)

# **■**§ 1-19-10.500.3. APPROVAL CRITERIA.

The [Board of County Commissioners] COUNTY COUNCIL may approve or disapprove a request for rezoning of property to a Planned Development District if persuaded that granting the request is appropriate and serves the public interest. The approval or disapproval of a request for the application will be determined through evaluation of several criteria to establish whether the proposed project meets the purpose and intent of the zoning district. In addition to the requirements in § 1-19-3.110.4, the Planning Commission and [Board of County Commissioners] COUNTY COUNCIL must find that the project adequately addresses the following criteria:

- (A) The proposed development is compact, employing design principles that result in efficient consumption of land, efficient extension of public infrastructure, and efficient provision of public facilities;
- (B) The proposed development design and building siting are in accordance with the County Comprehensive Plan, and any applicable community and corridor plans;
- (C) The proposed development is compatible with existing or anticipated surrounding land uses with regard to size, building scale, intensity, setbacks, and landscaping, or the proposal provides for mitigation of differences in appearance or scale through such means as setbacks, screening, landscaping; or other design features in accordance with the County Comprehensive Plan, and any applicable community or corridor plans;

- (D) The proposed development provides a safe and efficient arrangement of land use, buildings, infrastructure, and transportation circulation systems. Factors to be evaluated include: connections between existing and proposed community development patterns, extension of the street network; pedestrian connections to, from, and between buildings, parking areas, recreation, and open space;
- (E) The transportation system is or will be made adequate to serve the proposed development in addition to existing uses in the area. Factors to be evaluated include: roadway capacity and level of service, on-street parking impacts, access requirements, neighborhood impacts, projected construction schedule of planned improvements, pedestrian safety, and travel demand modeling;
- (F) The proposed development provides design and building placement that optimizes walking, biking, and use of public transit. Factors to be evaluated include: extension of the street network; existing and proposed community development patterns; and pedestrian connections to, from, and between buildings, parking areas, recreation, and open space;
- (G) Existing fire and emergency medical service facilities are or will be made adequate to serve the increased demand from the proposed development in addition to existing uses in the area. Factors to be evaluated include: response time, projected schedule of providing planned improvements, bridges, roads, and nature and type of available response apparatus;
- (H) Natural features of the site have been adequately considered and utilized in the design of the proposed development. Factors to be evaluated include: the relationship of existing natural features to man-made features both on-site and in the immediate vicinity, natural features connectivity, energy efficient site design, use of environmental site design or low impact development techniques in accordance with <a href="Chapter 1-15.2">Chapter 1-15.2</a> of the Frederick County Code;
- (I) The proposed mixture of land uses is consistent with the purpose and intent of the underlying County Comprehensive Plan land use designation(s), and any applicable community or corridor plans;
- (J) Planned developments shall be served adequately by public facilities and services. Additionally, increased demand for public facilities, services, and utilities created by the proposed development (including without limitation water, sewer, transportation, parks and recreation, schools, fire and emergency services, libraries, and law enforcement) shall be evaluated as adequate or to be made adequate within established county standards.

(Ord. 10-26-561, 11-9-2010)

# 📙 § 1-19-10.500.4. REVIEW AND APPROVAL PROCEDURES.

Review and approval of the Planned Development District includes a preapplication conference, neighborhood meeting, Phase I justification and floating zone reclassification, and Phase II execution. The applicant must obtain all necessary approvals at each phase prior to proceeding to the next phase.

(A) *Preapplication conference*. Prior to a Phase I application submission, a preapplication conference shall be held with the COMMUNITY DEVELOPMENT Division [of Planning]. The conference is intended to provide information to the applicant regarding application requirements, review and approval procedures, neighborhood meeting requirements, discussion

of development constraints and opportunities, county policy initiatives, and the County Comprehensive Plan. The applicant shall submit preapplication information in a format acceptable to the COMMUNITY DEVELOPMENT Division [of Planning], including: a description of the tract of land for which the Planned Development District is proposed; existing and proposed land uses; existing historic and natural features; or other information as required to adequately evaluate the application.

- (B) *Neighborhood meeting*. Prior to submitting a Phase I application the applicant shall hold a neighborhood meeting. The meeting will provide an opportunity to identify impacts that the project may have on the neighborhood surrounding the proposed project.
- (C) *Phase I justification and floating zone reclassification*. The procedure for Phase I approval is the same as for zoning map amendments set forth in §§ 1-19-3.110.1 through 1-19-3.110.6.
- (1) Prior to Phase I application the tract of land receiving the proposed Planned Development District shall be classified as Planned Service or higher on the Frederick County Water and Sewerage Plan.
- (2) Phase I approval shall include approval of a concept plan graphically illustrating the project. The concept plan shall be submitted for review as part of the Phase I application.
- (D) *Phase II execution*. The procedure for Phase II approval shall follow the applicable subdivision or site development plan review process.
- (1) Prior to Phase II application the Planned Development District property must be classified at least W4/S4 on the Frederick County Water and Sewerage Plan.
- (2) Subsequent to Phase I approval and prior to or concurrent with Phase II approval (or as part of a development rights and responsibilities agreement in accordance with <a href="Chapter 1-25">Chapter 1-25</a>) the applicant shall obtain Adequate Public Facilities Ordinance (APFO) approval in accordance with <a href="Chapter 1-20">Chapter 1-20</a> of the Frederick County Code.
- (3) Subdivision shall occur in accordance with county subdivision regulations. Site development plan review shall occur in accordance with §§ 1-19-3.300 through 1-19-3.300.4.

(Ord. 10-26-561, 11-9-2010; Ord. 12-04-599, 2-21-2012)

# **■**§ 1-19-10.500.5. APPLICATION.

A Phase I application for Planned Development District reclassification and concept plan approval must include sufficient information to provide the [Board of County Commissioners] COUNTY COUNCIL with a basis to approve the overall concept of the project, rezone the property, and set a maximum permitted land use density, or the [Board] COUNTY COUNCIL may in its sole discretion, disapprove the rezoning request. At a minimum, a Phase I application shall include: information regarding the existing site conditions, a concept plan providing a graphic illustration of the proposed development, a justification statement, and a proposed phasing plan in accordance with the following standards:

(A) Existing site conditions. Existing site conditions information shall include the following:

- (1) A vicinity map at a scale of 1 inch equals 2,000 feet or more to the inch, depicting the tract of land proposed for development with respect to surrounding properties and streets. At a minimum the map will show all streets and highways within 2,000 feet of the property proposed for development. Where available, the vicinity map shall include state assessment tax map, parcel number, and tax identification for all properties depicted.
- (2) A boundary survey prepared and certified by a registered land surveyor within the State of Maryland. The boundary survey shall identify all easements affecting the tract of land proposed for development, and other physical encumbrances readily identified by a field inspection.
- (3) A transportation map indicating the location of the tract of land proposed for development, with respect to local, collector, and arterial streets, existing easements and rights-of-way on or abutting the tract of land proposed for development, all existing bicycle and pedestrian facilities, and existing and planned transit facilities including routes and stops. The transportation map scale shall be determined at the preapplication conference based on project specifics.
- (4) A land use map at a scale of 1 inch = 100 feet, indicating the type, location, acreage, and density of all existing land uses, the general street layout and circulation pattern, including existing zoning and County Comprehensive Plan land use designation. Existing land uses shall be included to a distance of 500 feet surrounding the tract of land proposed for development.
- (5) An aerial photograph with the tract of land proposed for development and project site clearly delineated.
- (6) An environmental and natural features map at a minimum scale of 1 inch = 100 feet. Unless otherwise specified by the COMMUNITY DEVELOPMENT Division [of Planning], the map shall reflect the tract of land proposed for development and the first 100 feet of adjoining land or width of the adjacent lot, whichever is less, and include the following:
- (a) Intermittent and perennial streams, drainage courses, and historic flow-ways on or within 200 feet of the tract of land proposed for development, including stream setbacks as required in § 1-19-9.400;
- (b) Areas of 100 year floodplain as depicted by the Federal Emergency Management Agency flood insurance rate maps or amendments thereto, including floodplain and stream setbacks as required in § 1-19-9.110;
- (c) Topography at a minimum of 5 foot contour intervals unless otherwise required by the COMMUNITY DEVELOPMENT Division [of Planning];
- (d) Moderate slopes (15% to <25%) and steep slopes (25% or greater);
- (e) Wetsoils and flooding soils;
- (f) Tree lines, forested areas, and rock formations including historic, champion, and specimen trees;
- (g) Location and type of native, exotic, and invasive vegetation;
- (h) Jurisdictional wetlands, including total acreage;

- (i) Any other relevant information as required by the COMMUNITY DEVELOPMENT Division [of Planning];
- (7) The location and description of all sites, buildings, structures, or other objects listed on or eligible for the National Register of Historic Places, Frederick County Register of Historic Places, or as listed on the Maryland Inventory of Historic Properties.
- (B) *Concept plan*. The concept plan shall be scaled to fit the sheet size of 24 inch x 36 inch, and shall also be submitted at 11 inch x 17 inch, and include the following:
- (1) Generalized location and type of existing and proposed easements;
- (2) Generalized location, configuration, and typical dimensions of all proposed subdivision lots;
- (3) Generalized location, configuration, and description of proposed land use areas including: land use, square footage, height, and number of stories of proposed buildings, proposed density, parking and loading areas, ingress and egress, natural features, historic and cultural features, and recreation/open space areas;
- (4) Existing land use surrounding the subject property including zoning and County Comprehensive Plan land use designation;
- (5) A transportation map detailing the generalized location and design of the proposed internal and external vehicular and nonvehicular transportation network, connections to existing transportation facilities, and general trip generation for the proposed land use(s).
- (6) A table and comparative analysis providing an explanation of the project gross and net density as proposed within the PUD or MXD District compared to the gross and net density as permitted within the existing land use designation. For the purposes of calculating gross and net density the following formulas shall be used:

total number of dwelling units ÷ total project acreage = gross density

total number of dwelling units ÷ the total project buildable acreage = net density

The calculation of net density excludes floodplain, roadways, and other land proposed to be dedicated for public purposes.

- (7) Building and spaces visualization. The Phase I application shall include a buildings and spaces visualization component to serve as a graphical translation of the Planned Development District concept plan. This application component may utilize any visualization tool necessary to adequately demonstrate the conceptual layout of streets, buildings, open spaces, and structures in the Planned Development District. The primary purpose of this component shall be to communicate the conceptual form of the proposed development for the purpose of evaluating whether the project meets the Planned Development District provisions.
- (C) The justification statement. The justification statement shall address each of the approval criteria set forth above and within §§ 1-19-3.110.1 through 1-19-3.110.6 of this chapter.
- (D) The phasing plan. The proposed phasing plan shall describe the timing and sequence for dedication of public lands and development of public facilities and utilities.

- (E) The Phase II application shall be provided in accordance with all applicable subdivision or site development plan review requirements, in addition to other required submissions and approvals (including without limitation, Adequate Public Facilities Ordinance studies, Forest Resource Ordinance plans, sight-distance studies, and stormwater management concepts).
- (F) A combined application for PUD and MXD Districts may be submitted where the subject property is to be divided into development areas which correspond to a different planned development category; and where each development area is identified by a separate legal description.

(Ord. 10-26-561, 11-9-2010; Ord. 11-25-591, 10-27-2011)

# § 1-19-10.500.6. LAND USE, MIXTURE, AND DESIGN REQUIREMENTS WITHIN THE PUD DISTRICT.

- (A) Land use permitted within the PUD District. General land use type and location shall be approved by the [BOCC] COUNTY COUNCIL in concept at Phase I and specifically by the Planning Commission through site development plan review at Phase II. Land uses permitted within the PUD district are limited to:
- (1) Residential. All residential uses including single family, duplex, townhouse, multifamily, or a continuing care retirement community (CCRC).
- (2) Commercial. Those uses permitted within the Village Center zoning district, and funeral homes.
- (3) Employment. Those uses permitted within the ORI zoning district as approved by the Planning Commission.
- (4) Institutional. Institutional uses shall be limited to recreational and community activities, public services and facilities, health care facilities, schools, and institutional uses as provided within § 1-19-5.310 Use Table.
- (5) Uses which are customary, accessory or associated with uses as permitted within this section or specifically approved by the Zoning Administrator including: private garages, storage spaces, tool sheds, or other similar uses.
- (6) A CCRC PUD or a CCRC as a portion of a PUD may include related accessory uses for the benefit or convenience of the residents and their guests including but not limited to: kitchen and dining facilities, restaurants, places of worship, indoor and outdoor recreational uses, retail and banking facilities, beauty salon and barbershops, gift shops, classrooms, medical offices, medical clinic, laboratory services, exercise and vocational activity areas. A complete listing and range of square footage for each individual accessory use must be shown on the Phase I plan. The [BOCC] COUNTY COUNCIL may deny or reduce the size, type, location, and/or mixture of the various accessory uses if determined that it is inappropriate for the site or overall area of the CCRC.
- (B) Residential land use mixture within the PUD District. A goal of the PUD district is to provide an optimal mixture of housing types, including single family dwellings, townhouses, and multifamily dwellings. It is recognized that each development project is unique and will benefit

from its own mixture of housing types. The specific mixture of housing types for each development project shall be established by the [BOCC] COUNTY COUNCIL at Phase I, based on an evaluation of the following:

- (1) Existing County Comprehensive Plan land use designation and the intended dwelling type and density.
- (2) Need for a particular dwelling type based on existing and proposed residential dwelling types surrounding the tract of land receiving the PUD district.
- (3) The County Comprehensive Plan community design policy of including a variety of dwelling types in all communities in Frederick County.
- (4) The mixture of dwellings recommended within the County Comprehensive, Community, and Corridor Plans for the tract of land receiving the PUD district.
- (5) The amount and type of moderately priced dwelling units provided.
- (C) Commercial land use mixture within the PUD District. In establishing the mixture of land uses in the PUD District the [BOCC] COUNTY COUNCIL shall include an evaluation of the relationship between proposed residential land uses and surrounding existing and proposed commercial land uses. This evaluation shall establish whether existing and proposed commercial land uses can adequately provide retail, business, and personal services to the proposed residential land use. Where it is determined that existing and proposed commercial and employment land uses will not adequately provide for the proposed residential land use, a minimum amount of commercial and employment land uses shall be required as part of the proposed development. The requirement of additional commercial and employment land uses shall be determined based on an evaluation of the following factors:
- (1) Whether the number and type of existing or proposed commercial/employment land uses located within a distance that may be reasonably expected to serve a majority of the proposed residential dwelling units adequately provide retail, business, and personal services to the proposed residential land use.
- (2) Whether the design of the proposed development maximizes use of alternate modes of transportation (pedestrian, bicycle, and transit) reducing the need for vehicular movement between residential and commercial/employment land uses.
- (3) Whether the proposed development reflects a land use mixture consistent with the County Comprehensive, Community, and Corridor Plans.
- (D) Open space/green area within the PUD District.
- (1) Open space/green area within the proposed PUD development shall be calculated based on gross project area, and provided at the following minimum rates:

Gross Density	Required Minimum Percentage of Open Space/Green Area Exclusive of Floodplain
3-6 du/acre	30%
6-12 du/acre	35%
12-20 du/acre	40%

- (2) The [BOCC] COUNTY COUNCIL may require public parks and recreation facilities in addition to open space/green area. (See also § 1-19-10.500.8(A).)
- (3) A reduction of not more than 50% of the open space/green area requirement may be granted [by the Board of County Commissioners] where the [Board] COUNTY COUNCIL finds that open space/green area requirements are met through the use of low impact development techniques, environmental site design techniques, open space green area located in close proximity to the proposed development (to include public park facilities), or a combination thereof. (See also § 1-19-10.500.8(A)).
- (E) Building square footages will be used to determine the land use percentages within mixed-use buildings.
- (F) The [Board of County Commissioners] COUNTY COUNCIL may in its sole discretion, deny, reduce, or increase the size, type, location, and/or mixture of the various land use components if [the Board] IT determines that the change is appropriate for the site or overall area of the PUD.
- (G) As part of Phase II execution, the Planning Commission may approve minor modifications to individual land use location (such as single-family detached, duplex, or townhouse), provided that the location of the overall land use component (residential) within the site has not been modified. Any change in the amount or percentage mix of commercial and/or residential development of a PUD project having Phase I approval, must be approved by the [Board of County Commissioners] COUNTY COUNCIL under the provisions of this division.
- (H) Design requirements: density, setbacks, and height within the PUD district.
- (1) Density.
- (a) Gross density of a proposed PUD development shall comply with the following table. The gross density may not exceed the maximum density specified by the County Comprehensive Plan residential land use designation of the subject property:

County Comprehensive Plan Land Use Designation	Dwelling Units per Acre
Low Density Residential	3-6 du/ac
Medium Density Residential	6-12 du/ac
High Density Residential	12-20 du/ac

- (b) Where the tract of land receiving the PUD District has 2 or more residential land use designations, then the density may be calculated as a weighted average of the density ranges as specified for the residential land use designations in which the PUD is proposed.
- (c) Where the tract of land receiving the PUD District has both residential and natural resource land use designations, the density may be calculated based on the combined area of the land use designations. (See also § 1-19-10.500.9(B)(2).)
- (d) The maximum density of the Planned Development District shall be approved at Phase I by the [BOCC] COUNTY COUNCIL after review and evaluation of the following factors:
- 1. Existing and planned availability of public facilities and utilities.
- 2. Access to existing or planned transportation networks with consideration that the highest density commercial, employment, and residential developments should be located near access to major thoroughfares, public transportation systems, and transit hubs to facilitate smart growth principles and compact development.
- 3. The physical characteristics of the site proposed for development with particular emphasis on development constraints which may restrict achievable density and dwelling type, including natural features such as steep slopes and floodplain.
- 4. The shape of the site proposed for development.
- 5. The design of the proposed development.
- 6. Any other relevant information that may have a bearing on the achievable density of the proposed development.
- (e) Planned Development Districts are subject to the MPDU requirements set forth in this chapter. Density bonus will be determined as part of the Phase I review process.
- (2) *Setbacks and height*. Setbacks and height shall be established by the Planning Commission at Phase II consistent with the general development standards as provided in § 1-19-10.500.9, reflecting the proposed development pattern and land use within the Phase I project concept plan or portion thereof, reflecting the location of the project within the county with consideration of the existing development pattern surrounding the proposed development, and consistent with the appropriate community and corridor plans.

(Ord. 10-26-561, 11-9-2010; Ord. 11-25-591, 10-27-2011)

# **№ § 1-19-10.500.7. LAND USE, MIXTURE, AND DESIGN REQUIREMENTS WITHIN THE MXD DISTRICT.**

- (A) Land use permitted within the MXD District. General land use type and location shall be established by the [BOCC] COUNTY COUNCIL in concept at Phase I and specifically by the Planning Commission through site development plan review at Phase II. Land uses permitted within the MXD District are limited to:
- (1) *Residential*. Medium density and high density residential uses including single family, townhouse, and multifamily. Residential land uses shall be permitted within the limited industrial

and office research industrial land use designations only as identified within the Comprehensive, Community, or Corridor Plan.

- (2) Commercial. Those uses permitted within the General Commercial Zoning District Except for the following: auction house, lumber yard, mobile home sales, boat sales and service, farm equipment sales and service, carpentry, electric, plumbing, welding, printing and upholstering establishments, fencing/pool/siding contractors, agricultural products processing, bottling plant, stone monument processing and sales, bus depot, animal auction sales, and racetrack.
- (3) *Employment*. Employment shall be limited to those uses permitted within the Office Research Industrial Zoning District.
- (4) Institutional. Institutional uses shall be limited to recreational and community activities, public services and facilities, health care facilities, schools, and institutional uses as provided within § 1-19-5.310 Use Table.
- (5) Uses which are customary, accessory or associated with permitted uses as provided within this chapter, or those accessory uses specifically approved by the Zoning Administrator.
- (B) Land use mixture within the MXD District.
- (1) Land use mixture within the MXD District shall be established by the [BOCC] COUNTY COUNCIL at Phase I in accordance with the following:

Land Use	Minimum Percentage of Total Project	Maximum Percentage of Total Project	
Residential	n/a	25% gross project acreage exclusive of floodplain	
Commercial (where project includes residential component)	n/a	25% gross project acreage exclusive of floodplain	
Commercial (Where project does not include residential component)	n/a	45% gross project acreage exclusive of floodplain	
Combined commercial and residential portions of the MXD	n/a	40% gross project acreage or 50% of the gross project acreage exclusive of floodplain, whichever is less	
Open space/green area	20% of total area devoted to commercial and employment/industrial uses	n/a	
	30% of total area devoted to residential uses		
The remainder of the site shall be used for employment, civic/institutional, and cultural			

(2) A mixture of residential and commercial/employment land uses shall be provided within the MXD District where applied to areas reflecting a County Comprehensive Plan land use designation of Mixed Use Development. The proposed development shall provide a mixture of land uses consistent with applicable County Community or Corridor Plans.

- (3) The [BOCC] COUNTY COUNCIL may require public parks and recreation facilities in addition to open space/green area. (See also § 1-19-10.500.8(A).)
- (4) A reduction of not more than 50% of the open space/green area requirement may be granted [by the Board of County Commissioners] where the [Board] COUNTY COUNCIL finds that open space/green area requirements are met through the use of low impact development techniques, environmental site design techniques, open space green area located in close proximity to the proposed development (to include public park facilities), or a combination thereof. (See also § 1-19-10.500.8(A)).
- (C) Building square footages will be used to determine the land use percentages within mixed-use buildings.
- (D) The [Board of County Commissioners] COUNTY COUNCIL may in its sole discretion, deny, reduce, or increase the size, type, location, and/or mixture of the various land use components if the [Board] COUNTY COUNCIL determines that the change is appropriate for the site or overall area of the MXD and necessary to achieve the purpose and intent of the MXD District.
- (E) As part of Phase II execution, the Planning Commission may approve minor modifications to individual land use location (such as single-family detached, duplex, or townhouse), provided that the location of the overall land use component (residential) within the site has not been modified. Any change in the amount or percentage mix of commercial and/or residential development of a MXD project having Phase I approval, must be approved by the [Board of County Commissioners] COUNTY COUNCIL as a new Phase I application.
- (F) Design requirements: density, setbacks, and height within the MXD District.
- (1) Density.
- (a) Gross density within a MXD District including residential dwelling units shall be established by the [BOCC] COUNTY COUNCIL at Phase I.
- (b) The maximum density of the Planned Development District shall be established at Phase I by the [BOCC] COUNTY COUNCIL after review and evaluation of the following factors:
- 1. Existing and planned availability of public facilities and utilities.
- 2. Access to existing or planned transportation networks with consideration that the highest density commercial, employment, and residential developments should be located near access to major thoroughfares, public transportation systems, and transit hubs to facilitate smart growth principles and compact development.
- 3. The physical characteristics of the site proposed for development with particular emphasis on development constraints which may restrict achievable density and dwelling type, including natural features such as steep slopes and floodplain.
- 4. The shape of the site proposed for development.
- 5. The design of the proposed development.

- 6. Any other relevant information that may have a bearing on the achievable density of the proposed development.
- (c) Planned Development Districts are subject to the MPDU requirements set forth in this chapter. Density bonus will be determined as part of the Phase I review process.
- (d) Where a portion of the tract of land receiving the MXD District reflects the natural resource land use designation the density may be calculated based on the combined area of the land use designations. (See also § 1-19-10.500.9(B)(2).)
- (2) *Setbacks and height.* Setbacks and height shall be established by the Planning Commission at Phase II consistent with the general development standards as provided in § 1-19-10.500.9, reflecting the proposed development pattern and land use within the Phase I project concept plan or portion thereof, reflecting the location of the project within the county with consideration of the existing development pattern surrounding the proposed development, and consistent with the appropriate community and corridor plans.

(Ord. 10-26-561, 11-9-2010; Ord. 11-25-591, 10-27-2011)

# § 1-19-10.500.8. PUBLIC FACILITIES AND UTILITIES WITHIN THE PLANNED DEVELOPMENT DISTRICTS.

- (A) *Parks and recreation*. Parks and recreation facilities shall be provided for the residential portion of PUD and MXD developments through a combination of active and passive amenities as approved by the [BOCC] COUNTY COUNCIL in accordance with the following:
- (1) Parks and recreation facilities may be required in addition to open space/green area based on an evaluation of existing parks and recreation facilities or parks and recreation facilities proposed as a portion of the Planned Development District.
- (2) Parks and recreation facilities shall be provided at a rate of 726 square feet per 2,000 square feet of gross floor area
- (3) Those areas containing floodplain, steep slopes, wetlands, flooding soils, or other similar features may be utilized toward meeting passive recreation requirements where land disturbance and clearing are minimized.
- (4) Where public park facilities are required in addition to open space/green area, the [BOCC] COUNTY COUNCIL may approve the use of passive recreation amenities such as floodplain, wetlands, steep slopes, flooding soils or other similar features in meeting open space/green area requirements.
- (B) Other public facilities. The [BOCC] COUNTY COUNCIL may require additional sites for other public facilities including schools, library services, or a fire and emergency medical service site to serve the proposed development where the [BOCC] COUNTY COUNCIL determines that a need exists based on established county standards of service.

(Ord. 10-26-561, 11-9-2010; Ord. 11-25-591, 10-27-2011)

# § 1-19-10.500.9. GENERAL DEVELOPMENT STANDARDS WITHIN THE PLANNED DEVELOPMENT DISTRICTS.

The following general development standards shall be met at the time of Phase II execution unless modified by the Planning Commission as provided in § 1-19-10.500.9(D).

- (A) Site and building design.
- (1) Parking, loading, landscaping, lighting, setbacks, and height shall be provided in accordance with this chapter.
- (2) Land uses shall be integrated so as to provide: bicycle, pedestrian, transit, and vehicular connections between land use bays; site design and building placement that facilitates land use interaction rather than separation; land use location that provides for a transition between land uses in both design and intensity, rather than segregation of land uses.
- (3) Pedestrian walkways and crossings shall provide convenient and safe access linking buildings, parking areas, transit facilities, pedestrian facilities, and recreation areas.
- (4) Pedestrian walkways and crossings shall be marked or constructed of materials to provide a distinction from areas of vehicular movement.
- (5) Maximum block length within the proposed development and maximum building footprint of commercial structures (as provided in § 1-19-10.500.6(A)(2) and § 1-19-10.500.7(A)(2)) shall be approved by the Planning Commission reflecting the overall proposed project development pattern, the location of the project within the county, and consistency with applicable community and corridor plans.
- (6) Buildings shall predominantly be designed and constructed to include finishes and materials of consistent quality and design on all sides such as: changes in building plane, windows, doorways, entrances, overhanging eaves, and shutters. Buildings may not include large expanses of undifferentiated façades and long plain wall sections.
- (7) Building design shall reflect the materials and architecture of traditional villages and towns throughout Frederick County and central Maryland unless otherwise provided within county community and corridor plans.
- (8) Buildings shall be designed and oriented in terms of their relationship to the human scale and shall reflect this relationship through the inclusion of human-scaled architectural elements such as, but not, limited to: porches, windows, doors, balconies, terraces, canopies, and other pedestrian amenities.
- (9) Buildings shall provide a primary pedestrian entrance onto a street, square, plaza, or sidewalk.
- (10) Buildings shall be oriented so that rear entrances and rear façades face away from roadways, pedestrian and public areas.
- (11) As many buildings as possible shall be oriented to pedestrian ways, local public streets, or internal roadways in larger developments.

- (12) Building placement shall provide for the concentration of service entrances, mechanical equipment, utilities and non-public facilities (i.e., refuse containers or outside storage) away from public access areas.
- (13) Building and site design shall be oriented to provide safe and convenient access to public transit facilities in accordance with the Frederick County transit-friendly design guidelines.
- (14) Parking shall be predominantly located to the side and/or rear of buildings.
- (15) Parking lots may not create long expanses of empty street frontage.
- (16) Projects shall be designed to link to existing and planned transportation networks, incorporate an interconnected street grid, and shall avoid commercial 'strip' development where vehicular access is achieved directly to a collector classification roadway or higher.
- (17) Shared access and interior drives with allowance for interconnection between properties shall be provided where feasible. The Planning Commission may require consolidation of multiple access points in complying with this standard. At the rear of properties access should be provided by alleyways or parking lot interconnections.
- (18) To the extent practical, shared and joint use parking shall be integrated into the overall parking plan to achieve a reduction in on-site parking and impervious surface.
- (19) Noise attenuation standards as approved by the Planning Commission including walls, fences, berms and landscaping, acoustical building materials, and/or increased setbacks shall be utilized to mitigate negative impacts where residential development is proposed adjacent to an arterial or freeway/expressway as identified in the County Comprehensive Plan.
- (20) Parks, open spaces, plazas, courtyards, green areas, recreation areas, civic spaces, and community facilities shall be designed and located in such a way as to maximize their proximity, convenience, and physical accessibility to the greatest number of potential users in the Planned Development District. Such amenities shall serve as central organizing features of the development and shall serve to enhance the pedestrian and bicycling environment of the proposed development.
- (21) Existing site structures and features shall be evaluated for the feasibility of preservation and integration into the proposed development. The evaluation shall include buildings, sites, structures, or other objects as listed on or eligible for the National Register of Historic Places, Frederick County Register of Historic Places, or as listed on the Maryland Inventory of Historic Properties.
- (B) Natural features.
- (1) Insofar as practical, the landscape shall be preserved in its natural state by:
- (a) Minimizing tree and soil removal or disturbance;
- (b) Siting buildings to protect and enhance the relationship between the buildings and the natural terrain;

- (c) Retaining existing tree lines, forested areas, and rock formations reducing visual impacts of development on surrounding properties and rights-of-way;
- (d) Establishing and preserving connectivity of and between natural features.
- (2) Where the Planned Development District has been applied to a County Comprehensive Plan land use designation of Natural Resource, the area designated Natural Resource may not be developed with dwelling units or commercial/employment structures, and roadways and vehicular crossings shall be minimized.
- (C) Public facilities and utilities.
- (1) The location, design, and extent of public facilities shall be provided in accordance with county standards and the County Comprehensive Plan.
- (2) *Water and sewer*. Planned Developments shall be served by publicly owned community water and sewer.
- (3) *Transportation*. The location and design of roads will be in accordance with the County Comprehensive Plan, county subdivision regulations, and the County Streets and Roads Design Manual, as amended.
- (4) *Utilities*. All utility lines shall be placed underground.
- (5) Ownership and maintenance.
- (a) Streets dedicated to public use shall, after acceptance by the [Board of County Commissioners] COUNTY, be maintained by the county.
- (b) Streets, alleyways or parking areas not dedicated to public use or not accepted by the [Board of County Commissioners] COUNTY shall be constructed to established county standards and shall be maintained by a property owners association, condominium association, or similar organization.
- (c) Open space/green area and parks and recreation areas may be owned and maintained by the county, or by a home owners association, condominium association or similar organization, subject to the approval of the Planning Commission and acceptance by the [Board of County Commissioners] COUNTY.
- (D) *Modifications*. As part of a Planned Development Phase II approval, the Planning Commission may approve modifications to parking, loading, street design, landscaping, screening, buffering requirements, and general development standards as provided in § 1-19-10.500.9(A), in accordance with the following:
- (1) Modifications to parking, loading, landscaping, screening, and buffering requirements shall be limited to modifications as provided for within Article VI: District Regulations.
- (2) All other modifications may be granted where the applicant or Planning Commission authorized representative can demonstrate need based on characteristics of the proposed use, physical site constraints, or other documentation as approved by the Planning Commission.

(3) Where a modification has been granted, the Planning Commission may require alterations to building and site design to minimize negative impacts on surrounding properties that may result from the modification. The building and site design modifications may include: location of public access, buffering and screening, landscaping, lighting, outdoor recreation areas, building location and orientation.

(Ord. 10-26-561, 11-9-2010; Ord. 13-25-653, 10-31-2013)

# § 1-19-10.500.10. SPECIFIC DEVELOPMENT STANDARDS WITHIN THE PLANNED DEVELOPMENT DISTRICTS.

- (A) Where a continuing care retirement community (CCRC) constitutes an entire PUD application (CCRC PUD), the tract shall have a minimum lot width of 200 feet and a minimum lot size of 5 acres.
- (B) If any development or portion thereof requests designation as an age-restricted community for the purpose of being exempt from the Adequate Public Facilities Ordinance (APFO) schools test under § 1-20-7(E), this request must be made as part of the applicant's Phase I application, indicating the number and location of the proposed age-restricted dwelling units.
- (C) The Planning Commission and the [BOCC] COUNTY COUNCIL, in their respective reviews of the proposed development, shall consider the following criteria to determine whether the project or portion thereof may be approved for designation as an age restricted community:
- (1) Active and passive recreational amenities.
- (2) Availability, suitability and proximity of the development to planned support services.
- (3) The amount of existing and approved age-restricted development in the county and in proximity to the proposed development.
- (D) An adaptive reuse project is not required to be designated at Phase I as an age-restricted community in order to apply for the exemption from the APFO schools test under § 1-20-7(E).

(Ord. 10-26-561, 11-9-2010; Ord. 11-25-591, 10-27-2011)

# § 1-19-10.500.11. TRANSITIONAL PROVISIONS FOR MIXED-USE DEVELOPMENTS (MXD) AND PLANNED UNIT DEVELOPMENTS (PUD).

- (A) Mixed-Use Developments (MXD) and Planned Unit Developments (PUD) with Phase I and Phase II approval as of November 20, 2010:
- (1) Shall retain existing approvals including the land use intensity and density rating as approved by the [Board of County Commissioners] COUNTY COUNCIL.
- (2) Amendments to existing Phase I or Phase II approvals that increase intensity or density shall comply with the provisions of this division.
- (B) Mixed-Use Developments (MXD) and Planned Unit Developments (PUD) with Phase I approval but without Phase II approval as of November 20, 2010, shall comply with the Phase II provisions of this division.

(Ord. 10-26-561, 11-9-2010)

## **DIVISION 6. MOBILE HOME PARK DISTRICT (MH)**

## **■** § 1-19-10.600. MOBILE HOME PARK (MH).

## **■ § 1-19-10.600.1. PURPOSE.**

The Mobile Home Park District (MH) is a floating zone established for the purpose of providing for the development of planned mobile home parks thereby increasing choices of housing types.

(Ord. 77-1-78, § 40-54, 1-24-1977; Ord. 08-26-502, 10-14-2008)

### **№ 1-19-10.600.2. GENERAL PROVISIONS.**

- (A) This section provides for the establishment of complete communities based around the concept of a community of mobile homes.
- (B) Location of mobile home park district as a floating zone may be established within areas delineated in the adopted County Comprehensive Development Plan as low, medium or high density residential.
- (C) (1) The minimum tract size for a mobile home park is 10 acres, with a minimum tract width of 300 feet and green area of 50 foot depth from the tract property lines. Density shall be determined as follows:

Comprehensive Plan Designation	Square Footage per Unit
Low Density	12,000
Medium Density	8,000
High Density	4,000

- (2) Density may be increased 10%, provided the cluster concept design is used as approved by the Planning Commission and 50% of the area gained from reduced sizes is set aside as green area. Mobile home parks are subject to § 1-19-8.620 through § 1-19-8.620.6.
- (D) One acre for every 10 acres of the site area will be used for recreation space. This will not include the area within required setbacks.
- (E) The minimum distance between individual mobile home units will be 20 feet.
- (F) Central water and sewerage systems shall be provided in all mobile home developments. Such systems shall be designed, constructed and maintained in accordance with state and county laws. Plans for the operation and maintenance of such systems are to be approved by the [Board of County Commissioners] COUNTY and the State Health Department. Septic systems are prohibited.

- (G) All utilities, including but not limited to electric and telephone lines, shall be placed underground in accordance with rules and procedures established by the Maryland Public Service Commission.
- (H) Vehicular access and parking shall be provided in accordance with the County Design Manual.
- (I) Phase I procedure for approval will be the same as for zoning map amendments as established in §§ 1-19-3.110.1 through 1-19-3.110.8 of this Code.
- (J) Phase II will be submission of preliminary and final plat submitted in accordance with the county subdivision regulations. Final plats will be recorded and shall constitute final approval of the mobile home park.

(Ord. 77-1-78, § 40-63(B), 1-24-1977; Ord. 77-10-87, 8-22-1977; Ord. 02-26-322, 11-21-2002; Ord. 08-26-502, 10-14-2008)

### Cross reference:

Subdivisions, see Chapter 1-16

# DIVISION 7. RESERVED DIVISION 8. SOLID WASTE DISTRICT (SW)

## **■§ 1-19-10.800. SOLID WASTE DISTRICT (SW).**

- (A) Solid Waste District (SW) shall be a floating zone which may be established within Agricultural, Village Center, Highway Service, General Commercial, Office Research/Industrial, Limited Industrial and General Industrial Zoning Districts and when having the corresponding Comprehensive Plan land use designation.
- (B) The uses permitted in the Solid Waste District shall be as set forth in § 1-19-5.310. Any use, dealing with solid waste which requires a permit from the Maryland Department of the Environment not specifically addressed in § 1-19-5.310, will be reviewed under these criteria and may be established only upon the approval of the [Board of County Commissioners] COUNTY COUNCIL.
- (C) A property owner may file an application which shall consist of the following:
- (1) Application stating request;
- (2) Site plan;
- (3) Statement of consistency with the County Solid Waste Plan;
- (4) Documents establishing compliance with all development standards set forth below;
- (5) A traffic study establishing that adequate traffic routes are available;
- (6) An environmental impact study establishing that the proposed facility will cause no substantial adverse impacts on the environment.

- (D) The application shall be filed and processed in the same manner as a zoning map amendment. The application may be granted if the [Board of County Commissioners] COUNTY COUNCIL finds that the applicant has established that the proposed use is compatible with neighborhood uses, consistent with the Comprehensive Plan for the county and the region in which it is located, and it satisfies the development standards and criteria set forth in this section and all other applicable provisions of this chapter.
- (E) Development standards.
- (1) Minimum lot size. Minimum lot size shall be 10 acres.
- (2) Location on floodplain prohibited. No portion of the site on which the solid waste facility is located may be within a designated floodplain.
- (3) *Required setbacks*. All activities associated with the use shall be located a minimum of 150 feet from the property lines.
- (4) *Building height restrictions*. The height of principal use equipment shall not exceed 100 feet from grade; accessory structures shall not exceed 60 feet from grade. Agricultural buildings are exempt from height restrictions.
- (5) *Frontage*. The site shall have a minimum of 80 feet frontage on a public road meeting the collector street standards established in the Master Highway Plan. Access shall not be provided by use of a panhandle.
- (6) Lot width. The lot width at the front building line shall be a minimum of 300 feet.
- (7) *Open space/green areas*. All setback areas shall be landscaped and maintained as green space.
- (8) *Exclusions from setbacks*. Fences, railroad access, warning signs, security/noise barriers, berms and access roads may be located within the setback areas.
- (9) Fencing. Fencing shall be required around all solid waste and accessory activity areas.
- (10) *Lighting*. Lighting shall be designed and directed so as not to adversely impact adjoining properties and shall be specifically approved during the site plan approval process.
- (11) *Access*. Commercial/industrial entrance standards shall be utilized in the design of any point of access to a public road, including acceleration and deceleration and bypass lanes as necessary.
- (F) All activities associated with the solid waste use and all other activities conducted on the site shall meet all applicable federal, state and local regulations governing noise, dust, air pollutant emissions, vibrations, water appropriation and discharge, including those established in § 1-19-7.610 of this chapter as set forth for Limited Industrial (LI) Districts.

(Ord. 91-32-032, 11-19-1991; Ord. 08-26-502, 10-14-2008)

### **DIVISION 9. INSTITUTIONAL FLOATING ZONING DISTRICT**

## **■§ 1-19-10.900. INSTITUTIONAL FLOATING ZONING DISTRICT (I).**

- (A) Purpose and intent.
- (1) The Institutional District is a floating zone established to provide for the location and development of large-scale public and private institutional uses including public airports, college or universities, private schools, or public schools in areas with an agricultural/rural or institutional County Comprehensive Plan land use designation. Institutional uses fulfill the important function of providing for the educational, health, and social well-being of residents. However, large institutional facilities, because of their size, scale, and intensity, may create adverse impacts on surrounding properties and neighborhoods. These adverse impacts include noise, significant traffic volumes, and consumption of large areas of land for parking, infrastructure, and related facilities. Review and siting of these facilities through a floating zone process will maintain the purpose of the agricultural/rural areas identified by the County Comprehensive Plan by directing development to areas contiguous to concentrations of growth rather than where only services intended for rural and agricultural activities have been provided, will mitigate or minimize impacts to surrounding properties and mitigate or avoid traffic congestion which improves pedestrian and roadway safety.
- (B) Size and location.
- (1) The Institutional District may be established where:
- (a) The tract of land receiving the Institutional District has a County Comprehensive Plan land use designation of either agricultural/rural or institutional. The Institutional District may be applied to a County Comprehensive Plan land use designation of Rural Residential (RurR), Low Density Residential (LDR), or Natural Resource (NR) where the RurR, LDR, or NR land use designations are a minor portion of the overall institutional project or a minor portion of the overall tract(s) receiving the Institutional District. Those portions of the project having a land use designation of Natural Resource may only be developed as provided in § 1-19-10.900(G)(5); and
- (b) The tract of land receiving the Institutional District has frontage on and direct access to a roadway with at least a collector status, as designated on the County Comprehensive Plan, and is built to said classification requirements. The [Board of County Commissioners] COUNTY COUNCIL may waive or modify this requirement where the tract of land receiving the Institutional District is within 2 miles of an existing grade separated interchange constructed on a controlled access freeway/expressway or within 2 miles of a proposed grade separated interchange constructed on a controlled access freeway/expressway as shown on the Frederick County Comprehensive Plan; and
- (c) The tract of land receiving the Institutional District is within ½ mile of a community growth boundary or is contiguous or within a community growth boundary as designated by the County Comprehensive Plan. For the purposes of this subsection, a property separated from a community growth boundary by a transportation or utility right- of-way (whether fee simple estate or lesser interest in realty) is deemed to be contiguous along the length of such right-of-way; or

- (d) Where multiple contiguous parcels of land under one ownership constitute a project, at least one parcel is within or contiguous to a community growth boundary as designated on the County Comprehensive Plan.
- (2) The tract of land receiving the Institutional District shall total no more than 100 acres except where the applicant can demonstrate that the increased size is required to meet the needs of the proposed development.
- (C) Approval criteria.
- (1) Approval or disapproval of a request for the application of the Institutional Zoning District shall be determined through evaluation of several criteria to establish whether the proposed project meets the purpose and intent of the zoning district. In addition to the requirements in § 1-19-3.110.4(A)(1)-(6), the Planning Commission and [Board of County Commissioners] COUNTY COUNCIL shall evaluate the project on the following criteria:
- (a) The project provides facilities that are planned and located in accordance with the Frederick County community design guidelines and development principles while considering the purpose and intent of the agricultural/rural or institutional land use designation;
- (b) The proposed use will be compatible with existing or anticipated surrounding uses in terms of size, building scale and style, intensity, setbacks, and landscaping, or the proposal provides for mitigation of differences in appearance or scale through such means as setbacks, screening, landscaping or other design features. Anticipated surrounding uses shall be determined based upon existing zoning and land use designations;
- (c) The project provides a safe and efficient arrangement of land use, buildings, traffic and pedestrian circulation systems, and infrastructure;
- (d) The transportation system is adequate to serve the proposed use in addition to existing uses in the area. Evaluation factors include roadway capacity and level of service, on-street parking impacts, access requirements, a traffic management plan, neighborhood impacts, and pedestrian safety;
- (e) Natural features of the site have been adequately considered and utilized in the design of the project. Evaluation factors include the relationship of existing natural features to man-made features both on-site and in the immediate vicinity;
- (f) Fire/rescue and law enforcement facilities are adequate to serve the proposed project within established county standards.
- (g) If the tract of land receiving the Institutional Floating Zoning District is designated other than No Planned Service (NPS) on the water and sewerage master plan then the project will be developed using publicly owned community water and sewer or a duly approved multi-use system. Those tracts of land receiving the Institutional Floating Zoning District and reflecting a designation of NPS shall utilize methods other than publicly owned community water and sewer meeting the requirements of and receiving approval from the Maryland Department of the Environment/the Frederick County Health Department.

- (h) Environmental, geological, and hydrological features of the site and surrounding area have been adequately considered in the design of the project.
- (D) Review and approval procedures.
- (1) *Phase I justification and floating zone reclassification*. The procedure for Phase I approval will be the same as for zoning map amendments as established in §§ <u>1-19-3.110.1</u> through <u>1-19-3.110.6</u>.
- (2) *Phase II execution*. The procedure for Phase II approval shall follow the applicable subdivision or site development plan review process. Prior to applying for Phase II where publicly owned community water and sewer are available to serve the proposed project, a classification of W-5, S-5 on the Frederick County Water and Sewerage Master Plan shall be obtained. Subdivision shall occur in accordance with county subdivision regulations. Site development plan review shall occur in accordance with §§ 1-19-2.160, 1-19-3.300 through 1-19-3.300.4.
- (E) Application.
- (1) The application submitted must include 15 copies of each of the following:
- (a) A map of the applicant's entire holding at a convenient scale;
- (b) A vicinity map at a scale of 1 inch equals 2,000 feet or more to the inch, indicating the location of the property with respect to surrounding property and streets. The map will show all streets and highways within 2,000 feet of the applicant's property;
- (c) An environmental features map of the property showing the existing surface of the land and the location of soil types and natural features such as streams, rock outcrops and wooded areas, at a minimum of 5 foot contour intervals, unless otherwise specified;
- (d) A generalized overall land use plan at 1'' = 100 scale, showing the type, location, acreage and density of all proposed land uses as well as the general street layout and circulation pattern;
- (e) A concept plan at 1" = 50 scale showing the location of all proposed lot lines; the location, proposed use, size and height of all existing and proposed buildings; the location of all roads, parking lots, truck loading areas and access and egress drives; and the location and type of all public, recreational or cultural facilities and areas;
- (f) A phasing schedule describing the timing and sequence of development;
- (g) A traffic management plan shall be submitted and approved by the [Division of Permitting and Development Review] COMMUNITY DEVELOPMENT DIVISION detailing the control and flow of vehicle traffic during events including emergency access. The plan shall also describe the responsible parties and necessary steps required for successful implementation;
- (2) The applicant shall also submit a justification statement addressing each of the approval criteria as well as the following:
- (a) Relationship of uses within the project and with existing uses in the neighborhood;
- (b) Long-term implications on local development patterns, facilities and services;

- (c) The timing of the construction of the project as it relates to the provision of facilities and services;
- (d) Availability and suitability of pedestrian and vehicular access, and transportation systems;
- (e) A statement identifying all related incidental accessory uses and activities associated with the primary use of the property including hours of operation, frequency of activity, and average number in attendance.
- (3) The [Board of County Commissioners] COUNTY COUNCIL may require that architectural renderings of buildings, streetscapes or public areas be presented to assure that the appearance, size and type of building material or other aspects of the design are in keeping with the purposes and intent of the institutional district. The [Board of County Commissioners] COUNTYCOUNCIL may add conditions to its approval of the institutional project requiring architectural review.
- (F) *Land use.* Land uses permitted within the Institutional Zoning District are limited to the following:
- (1) Public airports
- (2) College or university
- (3) Solar array approved as a nongovernmental utility in conjunction with a college or university
- (4) Private school
- (5) Public school
- (6) Accessory uses shall be limited to those deemed to be incidental accessory uses associated with an institutional use as provided within this chapter (see also § 1-19-10.900(H)(1)(a) and (b), and Article VIII, Division 2. Accessory Uses) or as approved by the Zoning Administrator.
- (G) General development standards. The following general development standards shall be met at the time of Phase II execution unless modified by the Planning Commission as provided in § 1-19-10.900 (G)(6).
- (1) Setbacks and height.
- (a) At a minimum setbacks and height limitations shall be as provided for institutional uses in the Agricultural District in § 1-19-6.100 Design Requirements for Specific Districts.
- (b) Along common property lines between the proposed development and an agricultural activity the setback shall be increased to 150 feet to include a landscaped area as set forth in § 1-19-10.900 (G)(3)(b). If the proposed development meets the definition of agricultural activity then the increased setback is not required. The Planning Commission may approve the reuse and location of development in the setback area if all identified adjacent agricultural activities have permanently ceased as determined by the Zoning Administrator.
- (c) Along common property lines between the proposed development and a residential use the setback shall be increased to 150 feet.

- (2) Parking, loading, landscaping, and lighting shall be provided in accordance with this chapter.
- (3) Green area.
- (a) All setback areas, except where otherwise permitted in this section, shall be landscaped and maintained as green space.
- (b) As provided for in  $\frac{1-19-10.900}{G}(G)(1)(b)$  an increased setback shall be created to reduce conflicts between agricultural and non-agricultural uses. The setback area shall be maintained with natural vegetation or planted to emphasize native species rather than turf grass, creating a vegetative screen with the following minimum standards:
- 1. Two staggered rows of non-invasive species of trees and shrubs containing predominantly evergreen foliage;
- 2. Trees shall be a minimum of 6 feet in height at the time of installation;
- 3. In addition to the required plant materials the setback area may contain floodplain, stream setbacks, utilities, and environmental site design techniques to address stormwater management. As otherwise permitted by this chapter, unpaved parking and passive recreation areas may be located within the buffer area; however, a minimum setback as provided for institutional uses in the Agricultural District in § 1-19-6.100 shall be maintained. Where the setback area is utilized to meet forest resource ordinance requirements a duplication of plant materials is not required.
- (4) *Natural features*. Insofar as practical, the landscape shall be preserved in its natural state by:
- (a) Minimizing tree and soil removal or disturbance;
- (b) Siting buildings to protect and enhance the relationship between buildings and the natural terrain;
- (c) Retaining existing tree lines, forest buffers, and rock formations reducing visual impacts of development on surrounding properties and rights-of-way.
- (5) Where the Institutional District has been applied to a County Comprehensive Plan designation of Natural Resource, the Natural Resource area may not be developed with additional dwelling units or additional commercial/employment structures, and roadways and vehicular crossings shall be minimized.
- (6) As part of the Institutional District Phase II approval, the Planning Commission may approve modifications to setbacks, height, parking, loading, landscaping, screening, and buffering requirements, and general development standards, in accordance with the following:
- (a) Modifications to parking, loading, landscaping, screening, and buffering requirements shall be limited to modifications as provided for within Article VI: District Regulations.
- (b) All other modifications may be granted where the applicant or Planning Commission authorized representative can demonstrate need based on characteristics of the proposed use, physical site constraints, or other documentation as approved by the Planning Commission.
- (H) Specific development standards.

- (1) College or university.
- (a) A college or university may include related incidental accessory uses necessary for the operation of the facility or the benefit or convenience of the residents or guests including but not limited to: administrative facilities, housing, athletic training facilities, recreational facilities, support services (bookstore, dining halls, post office, maintenance and storage facilities), place of worship, cemetery, and related utilities.
- (b) At the time of Phase I approval additional uses may be identified and approved based on their direct relationship to primary college or university activities existing, or planned as part of the current application. These uses include: conference center (meeting rooms/guest accommodations), retail establishment, child care center, employment center, and retirement housing. These uses and related facilities shall be operated in association with the college/university and function for the use and benefit of students, faculty, administration and alumni(ae).

(Ord. 09-21-525, 6-4-2009; Ord. 09-22-526, 7-14-2009; Ord. 10-31-566, 12-21-2010; Ord. 13-25-653, 10-31-2013)

# DIVISION 10. OPEN SPACE RECREATION FLOATING ZONING DISTRICT

# **№** § 1-19-10.1000. OPEN SPACE RECREATION FLOATING ZONING DISTRICT (OSR).

- (A) Purpose and intent.
- (1) The Open Space Recreation District is a floating zone established to provide for the location and development of large-scale recreational uses including recreational vehicle campgrounds, golf courses, zoo/botanical garden/arboretums, and fairgrounds in areas with an agricultural/rural County Comprehensive Plan land use designation. These types of development provide for active and/or passive recreation adding to the opportunities for outdoor exercise, appreciation of scenic areas, and enjoyment and access to open space. As natural resource dependent uses, large recreational developments can consume large areas of land for parking, infrastructure, and related facilities leading to adverse impacts on surrounding properties and neighborhoods. Review and siting of these facilities through a floating zone process will enable the location of these facilities to areas contiguous to a community growth boundary to provide a transition between growth areas and existing agricultural uses, to mitigate or minimize impacts to surrounding properties, mitigate or avoid traffic congestion which improves pedestrian and roadway safety, and to maintain the purpose of the agricultural/rural areas identified by the County Comprehensive Plan.
- (B) Size and location.
- (1) The Open Space Recreation District may be established where:
- (a) The tract of land receiving the Open Space Recreation District has a County Comprehensive Plan land use designation of agricultural/rural; and

- (b) The tract of land receiving the Open Space Recreation District has frontage on and direct access to a roadway with at least a collector status, as designated by the County Comprehensive Plan, and is built or will be upgraded by the applicant to said classification requirements. The [Board of County Commissioners] COUNTY COUNCIL may waive or modify this requirement where the tract of land receiving the Open Space Recreation District is within two miles of a grade separated interchange on a controlled access freeway/expressway; and
- (c) The tract of land receiving the Open Space Recreation District is within two miles of a grade separated interchange on a controlled access freeway/expressway, or the tract of land is within or contiguous to a community growth boundary as designated on the County Comprehensive Plan. For the purposes of this subsection, a property separated from a community growth boundary by a transportation or utility right-of-way (whether fee simple estate or lesser interest in realty) is deemed to be contiguous along the length of such right-of-way; or
- (d) Where multiple contiguous parcels of land under one ownership constitute a project, at least one parcel is within or contiguous to a community growth boundary as designated on the County Comprehensive Plan; and
- (2) The tract of land receiving the Open Space Recreation District shall have a minimum parcel size of: 10 acres for a recreational vehicle campground, and a minimum of 25 acres and a maximum of 200 acres for fairgrounds except where the applicant can demonstrate the increased size is required to meet the needs of the proposed development.

### (C) Approval criteria.

- (1) Approval or disapproval of a request for the application of the Open Space Recreation Zoning District shall be determined through evaluation of several criteria to establish whether the proposed project meets the purpose and intent of the zoning district. In addition to the requirements in § 1-19-3.110.4(A)(1)-(6), the Planning Commission and [Board of County Commissioners] COUNTY COUNCIL shall evaluate the project on the following criteria:
- (a) The project provides facilities that are planned and located in accordance with the Frederick County community design guidelines and development principles while considering the purpose and intent of the agricultural/rural land use designation;
- (b) The proposed use will be compatible with existing or anticipated surrounding uses in terms of size, building scale and style, intensity, setbacks, and landscaping or the proposal provides for mitigation of differences in appearance or scale through such means as setbacks, screening, landscaping or other design features. Anticipated surrounding uses shall be determined based upon existing zoning and land use designations;
- (c) The project provides a safe and efficient arrangement of land use, buildings, traffic and pedestrian circulation systems, and infrastructure;
- (d) The transportation system is adequate to serve the proposed use in addition to existing uses in the area. Evaluation factors include roadway capacity and level of service, on-street parking impacts, access requirements, neighborhood impacts, and pedestrian safety;

- (e) Natural features of the site have been adequately considered and utilized in the design of the project. Evaluation factors include the relationship of existing natural features to man-made features both on-site and in the immediate vicinity;
- (f) Fire/rescue and law enforcement facilities are adequate to serve the proposed project within established county standards.
- (g) If the tract of land receiving the Open Space Recreation Floating Zoning District is designated other than No Planned Service (NPS) on the water and sewerage master plan then the project will be developed using publicly owned community water and sewer. Those tracts of land receiving the Open Space Recreation Floating Zoning District and reflecting a designation of NPS shall utilize methods other than publicly owned community water and sewer meeting the requirements of and receiving approval from the Maryland Department of the Environment/the Frederick County Health Department.
- (h) Environmental, geological, and hydrological features of the site and surrounding area have been adequately considered in the design of the project.
- (i) When a tract of land for which the Open Space Recreation Zone is proposed, is located wholly or partly within a Frederick County Priority Preservation Area (PPA), the project shall in addition to the other requirements of this section be evaluated to ascertain consistency with the purpose and intent of the PPA. This evaluation shall include the following factors: existence of prime farmland soils as identified in the USDA Soil Survey for Frederick County, existing agricultural easements surrounding the tract, development potential, and the tract size and location within the PPA. In the event the approving body determines the project as proposed is inconsistent with the purpose and intent of the PPA, the approving body may impose conditions to mitigate the inconsistency or deny the application.
- (D) Review and approval procedures.
- (1) Phase I justification and floating zone reclassification. The procedure for Phase I approval will be the same as for zoning map amendments as established in §§  $\underline{1-19-3.110.1}$  through  $\underline{1-19-3.110.6}$ .
- (2) *Phase II execution*. The procedure for Phase II approval shall follow the applicable subdivision or site development plan approval process. Prior to applying for Phase II where publicly owned community water and sewer are available to serve the proposed project, a classification of W-5, S-5 on the Frederick County Water and Sewerage Master Plan shall be obtained. Subdivision shall occur in accordance with county subdivision regulations. Site development plan review shall occur in accordance with §§ 1-19-2.160, 1-19-3.300 through 1-19-3.300.4 of this chapter.
- (E) Application.
- (1) The application submitted must include 15 copies of each of the following:
- (a) A map of the applicant's entire holding at a convenient scale.

- (b) A vicinity map at a scale of 1 inch equals 2,000 feet or more to the inch, indicating the location of the property with respect to surrounding property and streets. The map will show all streets and highways within 2,000 feet of the applicant's property.
- (c) An environmental features map of the property showing the existing surface of the land and the location of soil types and natural features such as streams, rock outcrops and wooded areas, at a minimum of 5 foot contour intervals, unless otherwise specified.
- (d) A generalized overall land use plan at 1'' = 100 scale, showing the type, location, acreage and density of all proposed land uses as well as the general street layout and circulation pattern.
- (e) A concept plan at 1'' = 50 scale showing the location of all proposed lot lines; the location, proposed use, size and height of all existing and proposed buildings; the location of all roads, parking lots, truck loading areas and access and egress drives; and the location and type of all public, recreational or cultural facilities and areas.
- (f) A phasing schedule describing the timing and sequence of development.
- (g) Landscape plans submitted by the applicant shall include a nutrient management plan addressing not only turf areas but also tree, shrub, and flower beds. The plan shall be prepared by a certified nutrient management consultant and follow the best management practices as outlined by the University of Maryland Cooperative Extension Recommendations.
- (2) The applicant shall submit a justification statement addressing each of the approval criteria as well as the following:
- (a) Relationship of uses within the project and with existing uses in the neighborhood;
- (b) Long-term implications on local development patterns, facilities and services;
- (c) The timing of the construction of the project as it relates to the provision of facilities and services;
- (d) Availability and suitability of pedestrian and vehicular access, and transportation systems;
- (e) A statement identifying all incidental accessory uses and activities associated with the primary use of the property including hours of operation, frequency of activity, and average number in attendance.
- (3) The [Board of County Commissioners] COUNTY COUNCIL may require that architectural renderings of buildings, streetscapes or public areas be presented to assure that the appearance, size and type of building material or other aspects of the design are in keeping with the purposes and intent of the Open Space Recreation District. The [Board of County Commissioners] COUNTY COUNCIL may add conditions to its approval of the open space recreation project requiring architectural review.
- (F) *Land use.* Land uses permitted within the Open Space Recreation Zoning District are limited to the following:
- (1) Recreational vehicle campground
- (2) Golf course

- (3) Zoo/botanical garden/arboretum
- (4) Fairground
- (5) Accessory uses shall be limited to those deemed to be incidental accessory uses to an open space recreation use as provided within this chapter (see Article VIII, Division 2. Accessory Uses) or as specifically approved by the Zoning Administrator.
- (G) *General development standards*. The general development standards provided below shall be met at the time of site development plan review.
- (1) Setbacks and height.
- (a) At a minimum setbacks and height limitations shall be as provided for natural resource uses in the Agricultural District in § 1-19-6.100 Design Requirements for Specific Districts.
- (b) Along common property lines between the proposed development and an agricultural activity the setback shall be increased to 150 feet to include a landscaped area as set forth in § 1-19-10.1000(G)(3)(c). If the proposed development meets the definition of agricultural activity then the increased setback is not required. The Planning Commission may approve the reuse and location of development in the setback area if all identified adjacent agricultural activities have permanently ceased as determined by the Zoning Administrator.
- (c) Along common property lines between the proposed development and a residential use the setback shall be increased to 150 feet.
- (2) Transportation.
- (a) Parking shall not be located within required setback areas, except where otherwise provided within this section.
- (b) Parking shall be limited to that number of spaces required by zoning ordinance. An increase in the number of parking spaces may be granted by the Planning Commission where the applicant can demonstrate need based on characteristics of the proposed use, hourly parking demand studies published by the Institute of Transportation Engineers (ITE), or other documentation as approved by the Planning Commission. Parking approved beyond that number required by zoning ordinance shall be constructed of pervious materials.
- (c) Parking areas required by zoning ordinance shall be landscaped in accordance with the following minimum standards:
- 1. Parking areas, other than overflow parking, shall be separated into bays of not more than 10 parking spaces. Between or at the end of each parking bay there shall be planters of at least 5 feet in width. Each planter shall contain 1 tree at least 6 feet in height at the time of planting and groundcover containing at least 2 shrubs for every 100 square feet of landscape area. Trees within parking area planters shall be deciduous and provide at least 20% canopy cover at maturity. The Planning Commission may approve modifications to these standards to accommodate parking area design requirements associated with a fairground, recreational vehicle campground, or environmental site design techniques.

- (d) Environmental site design techniques such as bioretention shall be utilized as the initial option for stormwater collection of all paved parking areas.
- (3) Green area.
- (a) All setback areas, except where otherwise permitted in this section, shall be landscaped and maintained as green space.
- (b) Landscaping shall be maintained in a healthy condition.
- (c) An increased setback shall be created to reduce conflicts between agricultural and non-agricultural uses. The setback area shall be maintained with natural vegetation or planted to emphasize native species rather than turf grass, creating a vegetative screen with the following minimum standards:
- 1. Two staggered rows of non- invasive species of trees and shrubs containing predominantly evergreen foliage;
- 2. Trees shall be a minimum of 6 feet in height at the time of installation;
- 3. In addition to the required plant materials the setback area may contain floodplain, stream setbacks, utilities, and environmental site design techniques to address stormwater management. As otherwise permitted by this chapter, unpaved parking and passive recreation areas may be located within the buffer area; however, a minimum setback as provided for natural resource uses in the Agricultural District in § 1-19-6.100 shall be maintained. Where the setback area is utilized to meet forest resource ordinance requirements a duplication of plant materials is not required.
- (4) Lighting shall be designed and directed away from adjoining properties so as not to cause glare or adverse impacts.
- (5) *Natural features*. Insofar as practical, the landscape shall be preserved in its natural state by:
- (a) Minimizing tree and soil removal or disturbance;
- (b) Siting buildings to protect and enhance the relationship between buildings and the natural terrain;
- (c) Retaining existing tree lines, forest buffers, and rock formations reducing visual impacts of development on surrounding properties and rights-of-way.
- (H) Specific development standards.
- (1) Fairground.
- (a) Multiple vehicular entrances and exits shall be provided, and located at least 400 feet away from any road intersection;
- (b) A traffic management plan shall be submitted to and approved by the [Division of Permitting and Development Review] COMMUNITY DEVELOPMENT DIVISION detailing the control and flow of vehicle traffic during events, including emergency access. The plan shall also describe the responsible parties and necessary steps required for successful implementation;

- (c) Reasonable hours of operation and number of days per event shall be approved by the [Board of County Commissioners] COUNTY COUNCIL as part of the Phase I approval.
- (d) Landscaping and screening shall be provided with the intent of reducing the impact on neighboring properties and enhancing the visual appeal of the project. All parking areas, other than overflow parking, shall be screened from adjacent properties and roads with plantings including evergreens at least 6 feet in height.
- (2) Recreational vehicle campground.
- (a) Both tent and recreation vehicles can be accommodated within a recreational vehicle campground, but the campground shall be designed to contain a majority of recreational vehicles.
- (b) Each campground will contain individual site electrical and water outlets, toilet and shower facilities, and sanitary facilities as required by the Frederick County Health Department.
- (c) Accessory commercial and recreational services, if exclusively used for residents of the campground, are permitted. This may include coin-operated laundry, grocery, swimming pool, or entertainment as approved by the Zoning Administrator.
- (d) Maximum density permitted is 15 campsites per acre and a minimum of 3,000 square feet per campsite. All campsites will be at least 50 feet from the property line.
- (e) The only permitted permanent residential occupancy will be for the resident owner or manager.
- (f) One acre for every 10 acres of the site area will be used for recreation space. This will not include the area within required setbacks.
- (g) The minimum distance between campsites will be 20 feet.
- (h) All utilities, including but not limited to electric and telephone lines, shall be placed underground in accordance with rules and procedures established by the Maryland Public Service Commission.

(Ord. 09-21-525, 6-4-2009; Ord. 09-22-526, 7-14-2009; Ord. 11-06-572, 5-17-2011; Ord. 11-25-591, 10-27-2011)

## **ARTICLE XI: DEFINITIONS**

Section

Division 1. Definitions

<u>1-19-11.100</u> Definitions

## **№ § 1-19-11.100. DEFINITIONS.**

- (A) The following rules of construction shall apply to the text of this chapter.
- (1) The particular will control the general.

- (2) In case of any difference of meaning or implication between the text of this chapter and any caption, illustration, summary table, or illustrative table, the text will control.
- (3) The words "shall" and "will" are always mandatory and not discretionary. The word "may" is permissive.
- (4) Words used in the present tense include the future; and words used in the singular number include the plural; and the plural includes the singular; words of the masculine gender will include the feminine and the neuter gender will refer to any gender as required, unless the context plainly indicates the contrary.
- (5) A building or structure includes any part thereof.
- (6) The phrase "used for" includes "arranged for, designed for, intended for, maintained for, or occupied for."
- (7) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
- (8) Unless it is plainly evident from the context that a different meaning is intended, a regulation which involves 2 or more items, conditions, provisions, or events connected by the conjunction "and, or," or "either . . . or," the use of the conjunction is defined as follows.
- (a) *AND*. All the connected items, conditions, provisions, and events apply together and not separately.
- (b) *OR*. The connected items, conditions, provisions, or events apply separately or in any combination.
- (c) *EITHER...OR*. The connected items, conditions, provisions, or events shall apply separately but not in combination.
- (9) The word "includes" does not limit a term to the specified examples, but is intended to extend the term's meaning to all other instances or circumstances of like kind or character.
- (10) When a term defined in the county subdivision regulations or the County Building Code occurs in this chapter, it has the meanings specified in the subdivision regulations or building code, unless specifically defined in this chapter.
- (11) The word "county" means Frederick County, Maryland. The word "state" means the State of Maryland.
- (12) The terms ["Board of County Commissioners,"] "Board of Appeals," "COUNTY COUNCIL," "COUNTY EXECUTIVE," "COUNTY GOVERNING BODY." "Director of [Planning] COMMUNITY DEVELOPMENT DIVISION," "Planning Commission," "County Attorney," "Department of Permits and Inspections," "County Engineer," "County Zoning Administrator," "health officer," and "Sediment Control Inspector" mean the respective council, boards and officers of the county.

- (13) Throughout this chapter, all words, other than the terms specifically defined herein, have the meaning inferred from their context in this chapter or their ordinarily accepted definitions, as defined in Webster's New Collegiate Dictionary, 1974 Edition.
- (B) In this chapter the following terms are used as defined unless otherwise apparent from the context.

**ACCESSORY APARTMENT.** An independent, self-contained dwelling unit greater than 800 square feet within an accessory structure located on the same lot as a single-family dwelling. (See also **CARETAKER RESIDENCE**.)

**ACCESSORY APARTMENT, LIMITED.** An independent, self-contained dwelling unit within a single-family dwelling, or within an accessory structure located on the same lot as a single-family dwelling. If the limited accessory apartment is located in an accessory structure, the limited accessory apartment shall not exceed 800 square feet in size.

**ACCESSORY USE OR STRUCTURE.** A subordinate use or structure, which is located on the same lot as the principal use or building except as outlined in § 1-19-8.250.1(F) and serves a purpose customarily incidental to the principal use or building. No accessory structures shall be permitted in designated floodplain areas.

**ACRE.** A measure of land containing 43,560 square feet.

**ADAPTIVE REUSE PROJECT.** Rehabilitation or renovation of existing obsolescent or historic structure(s) from their original or most recent use to a new use.

**AGE-RESTRICTED COMMUNITY.** A development or portion thereof which has been designated as an age-restricted community in accordance with § 1-19-10.500.10 of this chapter.

AGRICULTURAL ACTIVITY. Land used exclusively as a bona fide agricultural operation by the owner or tenant. The use of land for agricultural purposes includes farming, viticulture (grape production), fish culture, animal and poultry husbandry, and equine activities. Necessary accessory uses such as packing, treating, or storing of produce, composting and power generation from farm animal waste are allowed provided that the operation of the accessory use is clearly incidental to the agricultural activity. The business of intensive swine feeding operations, garbage feeding of hogs, fur farms or the raising of animals for use in medical or other tests or experiments, commercial slaughtering of livestock, poultry, fish or meat processing is excluded from this definition.

**AGRICULTURAL ACTIVITY, LIMITED.** The keeping of farm animals in residential districts on lots with less than 3 acres. Apiaries are excluded from this definition. (See also § 1-19-8.325 and § 1-19-8.407.)

**AGRICULTURAL PRODUCTS PROCESSING.** Processing on the farm of an agricultural product in the course of preparing it for market. (This definition excludes agricultural value added processing and farm winery).

**AGRICULTURAL VALUE ADDED PROCESSING.** Treatment that changes the form of a product grown on a farm in order to increase its market value with a minimum of 51% of the processed product being produced on the farm. For purposes of this use, the term "farm" includes

contiguous and noncontiguous parcels within the county in active agricultural production which are owned or leased by the processor.

AGRITOURISM ENTERPRISE. Activities conducted on a farm and offered to the public or to invited groups for the purpose of education, recreation, or active involvement in the farm operation. These activities shall be related to agriculture and shall be accessory to the primary agriculture operation on the site. This term shall include farm tours, hayrides, corn mazes, seasonal petting farms, farm museums, guest farm, pumpkin patches, "pick your own" or "cut your own" produce, classes related to agricultural products or skills, picnic and party facilities offered in conjunction with the above. No use that is otherwise identified in § 1-19-5.310 as permitted with site plan approval or by special exception is permitted as an agritourism enterprise.

AIRCRAFT LANDING AND STORAGE AREA, PRIVATE. Landing areas or hangars for storing or maintenance of aircraft, with the principal user being the owner of the property.

AIRCRAFT LANDING AND STORAGE AREAS, PRIVATE-COMMERCIAL USE. Landing areas or hangars for storing or maintenance of aircraft, for use by the property owner and specific individuals designated by the property owner. The facility shall not allow flight or storage operations by the general public.

**AIRPORT, PUBLIC.** Any publicly owned airport licensed by the State of Maryland as a public airport, which meets minimum safety and service standards and is open for use to the general flying public.

**AMEND** or **AMENDMENT.** Any repeal, modification, or addition to a regulation; any new regulation; any change in the number, shape, boundary, or area of a zone; or any repeal or abolition of any map, part thereof, or addition thereto.

**ANIMAL HOSPITAL/VETERINARY CLINIC.** The use of property by licensed veterinary practitioners for the care and treatment of the diseases and injuries of animals and where animals may be boarded during their convalescence.

**ANIMAL INCINERATOR.** A facility for the disposal of animal remains that is operated as an accessory to an animal hospital or veterinary clinic in the Agricultural Zoning District and that complies with the special exception criteria set forth in § 1-19-8.338 of the zoning ordinance or as an accessory to a cemetery/memorial garden in the Agricultural Zoning District and that complies with § 1-19-8.220.

**ANTIQUE SHOP.** The use of property for the selling of items such as works of art, furniture, or decorative objects that have value and significance because of factors such as age, rarity, or historical significance.

**APIARY.** A collection of 1 or more bee colonies.

**APPROVING BODY.** For the purposes of Article VI, Division 7 of this chapter, the approving body:

(a) Shall be the Board of Appeals where a communications tower for which an application has been submitted is to be located in a zone where permitted by special exception; or

(b) Shall be the Planning Commission where a communications tower for which an application has been submitted is to be located in a zone where permitted by right.

APPROXIMATE FLOODPLAIN. Those portions of land subject to inundation by the 100-year flood, where no water surface elevations or floodway data have been provided. A 100-year flood elevation shall be established after consideration of any flood elevation and floodway data available from federal, state, or other sources. The approximate floodplain appears on both the flood insurance rate maps and flood boundary and floodway maps and may appear on all panels as Zone A.

**AQUIFER.** Any formation of soil, sand, rock, gravel, limestone, sandstone, or other material, or any crevice from which underground water is or may be produced.

**ARTISAN AND CRAFT SHOP.** The use of property for the preparation, display or sale of individually crafted artwork, jewelry, furniture, sculpture, pottery, leather craft, hand-woven articles, and other articles of artistic quality, or effect, or handmade workmanship. Examples include candle making, glass blowing, weaving, pottery making, woodworking, sculpting, painting, and other associated activities.

**ASSISTED LIVING FACILITY.** A facility that provides housing and supportive services, supervision, personalized assistance, health related services, or a combination thereof, to meet the needs of residents who are unable to perform or who need assistance with the activities of daily living.

**AUCTION SALES - ANIMALS.** A structure or enclosure where farm livestock are sold by auction.

**AUTOMOBILE FILLING AND SERVICE STATION.** Any building, structure or area of land that is used for the retail sales of motor vehicle fuels, oils and accessories and where repair service other than paint or body or fender work is incidental; and no junked autos or other vehicles are parked or otherwise stored on the premises. This does not include truck stops and filling station service facilities.

**AUTOMOBILE REPAIR OR SERVICE SHOP.** Any building or lot used for major automobile repair or body work and may have automobile servicing, including the sale of fuels, oils, or parts, as an accessory use.

**AUTOMOBILE SALES AND SERVICE CENTER.** A lot, parcel or structure used for the sales and complete servicing of automobiles, including painting, body and fender repairs.

**AUTOMOBILE SALES LOT.** A lot designed or used for the storage or display for sale of any motor vehicle or any unoccupied trailer, and not used for repair work or service other than minor incidental repairs to vehicles or trailers displayed or sold on the premises, and not used for the storage of whole or parts of dismantled or wrecked motor vehicles.

#### AUTOMOBILE WRECKING YARD. See JUNKYARD.

**BASE FLOOD.** The 100-year frequency flood event (having one chance in a hundred of being equaled or exceeded in any year) as indicated in the Flood Insurance Study, as amended, the elevation of which is used for regulatory purposes in this chapter.

**BASEMENT.** An enclosed area which is below grade on all 4 sides.

**BATTING CAGE/RANGE.** A tract of land laid out with an enclosed area containing pitching machines and batting areas wherein softballs and/or baseballs are propelled toward a batter. A batting cage/range may include a snack bar, a pro-shop, and retail sales of batting equipment as accessory uses.

**BED AND BREAKFAST** (**B&B**). An owner- occupied single family detached dwelling, in which primarily sleeping accommodations are provided for compensation to transient guests in not more than four guest rooms. A B&B may include the provision of meals for overnight guests only. A B&B is not a home occupation. (See **COUNTRY INN**.)

**BEE COLONY.** The bee hive, including bees, combs, honey, and related equipment.

**BILLBOARD SIGN.** A sign used for any activity, person, group of people or thing not located on the premises upon which the sign is located.

**BIORETENTION.** A water quality practice that utilizes landscaping and soils to treat stormwater runoff by collecting it in shallow depressions before filtering though a fabricated planting soil media.

**BOARD.** The County Board of Appeals.

**BORROW PIT OPERATION.** An area from which soil or other unconsolidated materials are removed to be used, without further processing, as fill for activities such as landscaping, building construction or street/road construction and maintenance.

**BUILDING.** A structure other than a tent or travel trailer, which has 1 or more stories and a roof, and is designed primarily for the permanent shelter, support or enclosure of persons, animals or property of any kind.

**BUILDING LINE.** The line beyond which the foundation walls or any enclosed porch, vestibule or other enclosed portion of a building or structure does not project. The depth of such line will be no less than depth required for the particular yard for the district in which the lot is located. The handle of a panhandle lot will not be considered in determining the location of the building line.

**BULK PLANT.** That portion of a property where flammable or combustible liquids are received from bulk shipping systems, including tank vessel, pipe lines, tank car, or tank vehicle; and are stored or blended in bulk for the purpose of distributing such liquids by bulk shipping systems, including tank vessels, pipe lines, tank car, tank vehicle or container to retail or wholesale customers. This definition does not include automobile filling and service stations or automobile repair and service shops.

**BUSINESS SIGN.** A sign used for advertising any commercial activity, person, group of people or thing located on the same premises as the sign.

*CAMPGROUND*, *RECREATIONAL VEHICLE*. Land for transient occupancy by camping in tents, camp trailers, travel trailers, motor homes, or similar movable temporary sleeping quarters for recreation, educational, or vacation purposes.

*CAMPGROUND, TENT.* Land intended for occupancy in tents as temporary living quarters for recreation, educational, or vacation purposes.

**CANDELA.** Unit of luminous intensity.

**CARETAKER RESIDENCE** in conjunction with a permitted use. An owner or caretaker occupied independent self-contained dwelling unit on the same lot, or within the same building, accessory to a permitted use, i.e., owner or caretaker.

*CARNIVAL* or *CIRCUS*. The temporary use of property for animal displays, rides, entertainment, traveling shows, exhibitions, or games of skill or chance.

*CATASTROPHIC EVENT.* A fire, explosion, flood, hurricane, tornado, or other disaster not caused by the property owner or his or her agent.

**CEMETERY/MEMORIAL GARDENS.** Land used for interment of human or animal remains or cremated remains, including a burial park for earth interments, a mausoleum for vault or crypt interments, a columbarium for cinerary interment or a combination thereof.

**CERTIFICATE OF OCCUPANCY OR USE.** A permit to legally occupy or use a building for the intended purpose.

**CHILD CARE CENTER/NURSERY SCHOOL.** The use of property which is licensed by the State of Maryland, as a child care center or nursery school pursuant to COMAR 13A.09.09.10B, as amended.

**CHIP AND PUTT GOLF COURSE.** A tract of land laid out for a par 3 golf course, improved with tees, greens, fairways and hazards. A chip and putt golf course may include a snack bar, a pro-shop, and retail sales of golf equipment as accessory uses.

**CIVIC COMMUNITY CENTER.** The use of property for a building which serves a public function, to be used for cultural, recreational or social activities, including senior centers, and similar community or government facilities.

*CIVIC SERVICE CLUB.* Buildings and facilities used for a social or recreational function, to which membership is required for participation, not primarily operated for profit or to render a service that is customarily carried on as a business. This use includes 4-H, American Legion, Eagles, Elks, Lions, Ruritan, VFW, and similar clubs.

**CO-HOUSING.** A resident planned and managed development consisting of no more than 35 housing units arranged in a coherent plan and including extensive common buildings whose floor space comprises at least 10% of the total individual unit floor space area.

**COLLEGE** or **UNIVERSITY**. An institution for post secondary education, public or private, offering courses in general, technical, or religious education.

**COMBUSTIBLE LIQUIDS.** Any liquid, as defined by NFPA 30, that has a closed-cup flash point at or above 100 degrees F (37.8 C) including but not limited to: kerosene, motor oil, diesel fuel and fuel oil.

**COMMERCIAL SCHOOL OR EDUCATION PROGRAM.** Education or training in business, technical, trade, commerce, language, or other similar specialty schools or satellite university or college located in an office-type setting.

**COMMERCIAL SWIMMING POOL.** A swimming pool or wading pool, and buildings necessary or incidental thereto, which are open to the general public and operated for profit.

**COMMUNICATIONS ANTENNA.** Any structure or device used to collect or radiate electromagnetic waves, including directional antennae, microwave dishes and satellite dishes, and omnidirectional antennae.

**COMMUNICATIONS TOWER.** A structure erected to support communications antennae.

**COMMUNICATIONS TOWER HEIGHT.** Shall be measured from the base on which the tower is mounted to the top of the tower or the antenna, whichever is greater.

**COMMUNITY FIRE AND RESCUE SERVICE.** The use of property or buildings which serve a neighborhood public function for non- governmental fire or rescue services and associated activities. Government owned fire and rescue services are included in the category of public buildings and properties.

**COMPOSTING.** The process in which organic solid waste is biologically decomposed under controlled conditions to yield a nuisance-free, humus-like product.

**COMPREHENSIVE DEVELOPMENT PLAN.** A composite of mapped and written text, the purpose of which is to guide the systematic physical development of the county, and is adopted by the [Board of County Commissioners] COUNTY and includes all changes and additions thereto made under the provisions of Md. Ann. Code, [Art. 66B] LAND USE ARTICLE. The **COMPREHENSIVE DEVELOPMENT PLAN** includes a land use plan, a transportation plan, a community facilities plan, a recreation plan and other attendant facility plans.

COMPREHENSIVE PHYSICAL REHABILITATION FACILITY. Any facility licensed as a special rehabilitation hospital to provide comprehensive physical rehabilitation services as defined in the Md. Code Ann., Health General Article (1990). All activities of the COMPREHENSIVE PHYSICAL REHABILITATION FACILITY will be conducted inside of the building envelope and shall not be conducted in public view. A COMPREHENSIVE PHYSICAL REHABILITATION FACILITY shall not be used for the treatment of mental or psychological disorders, alcohol or other drug dependency problems, or for any problems other than the physical, medical rehabilitation of the human body.

*CONDOMINIUM.* An ownership arrangement as defined in the Md. Code Ann., Real Property Article, Title II.

**CONTAINMENT DEVICE.** A device that is designed to contain an unauthorized release, retain it for cleanup, and prevent released materials from penetrating into the ground.

**CONTINUING CARE RETIREMENT COMMUNITY.** A building or group of buildings providing a continuity of residential occupancy and health care for elderly persons and meeting the standards of the Annotated Code of Maryland for a facility of this type. The facility includes dwelling units for independent living, assisted living, skilled nursing care or a combination

thereof. The use may include incidental facilities for the further employment, service, or care of the residents.

**CONTRACTOR.** An individual, firm, or corporation undertaking the execution of any manmade change to improved or unimproved real estate, under the terms of a contract or agreement, including the construction, altering or demolishing of buildings or other structures; dredging, filling, grading, paving, excavating, or drilling of land; or installing, repairing or maintaining utilities.

**CONVENIENCE STORE.** An establishment which sells packaged and/or prepared foods and beverages and other convenience items for consumption off of the premises by travelers and highway users.

#### CORNER LOT. See LOT TYPES.

**COUNTRY INN.** The use of a structure that existed on January 24, 1977, in which overnight or otherwise temporary lodging and meals are provided in exchange for compensation, to transient guests in not more than eight guest rooms, along with one or more of the following services: restaurant, banquet facility, catering service, and may include meeting rooms.

**COURT.** An open, unoccupied area which admits unobstructed light and air, other than a yard, on the same lot with a group of buildings.

#### DAY CARE CENTER. See NURSERY SCHOOL.

**DESIGNATED HERITAGE AREA.** An area certified as, or meeting the definition of a heritage area as defined under the state's Heritage Preservation and Tourism Areas Act of 1996.

**DETACHED DWELLING.** A dwelling which contains only dwelling units and is surrounded on all sides by yards or other green areas on the same lot.

**DEVELOPMENT.** Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, dumping extraction, dredging, grading, paving, storage of materials or equipment, land excavation, land clearing, land improvement, landfill operation, or any combination thereof. This term shall also include the subdivision of land as it applies to existing properties located totally within a designated floodplain.

**DIRECTIONAL OR INFORMATION SIGN.** A sign describing the location of a community institution of a public nature, traffic control devices erected by a governmental body, or arrows or other graphic display of direction.

**DISTRICT.** A portion of the unincorporated territory of the county within which certain uniform regulations or requirements apply under this chapter.

**DOG RUN, OUTSIDE.** An enclosed outdoor area intended for the exercising and/or containment of dogs and similar animals.

**DRIVE-IN THEATER.** An outdoor theater and includes only those areas, buildings or structures designed and used for the commercial outdoor exhibition of motion pictures.

**DUPLEX DWELLING.** Two dwelling units arranged or designed to be located on abutting and separate lots and separated from each other by a continuous vertical party wall, without openings from the lowest floor level to the highest point of the roof which lies along the dividing lot line, and such dwelling is separated from any other structure by yards or other green areas on all sides.

**DWELLING.** A building or structure, containing 1 or more dwelling units, and used principally for residential purposes.

**DWELLING UNIT.** A room or group of rooms forming a single residential unit with facilities for living, sleeping and cooking purposes which are exclusively used for the family living therein.

### DWELLING, ZERO LOT LINE.

- (a) **ZERO LOT LINE.** A single-family detached dwelling unit located with 1 side less than 10 feet from 1 lot line and designed to orient interior space to the other 3 yards.
- (b) **ZERO LOT LINE DEVELOPMENT.** A development of single-family detached units in which 1 or more units are located adjacent to a lot line, but separated from the nearest structure on another lot. A **ZERO LOT LINE DEVELOPMENT** shall allow dwelling units to be located on the property line, provided that no part of the building shall protrude over the adjoining lot and provided that 10 foot easements shall be recorded and shown on the record plat to permit access to the adjacent lot for purposes of maintenance to the side of a lot's structure.

*ELEVATION CERTIFICATE.* Form supplied by the Federal Emergency Management Agency (FEMA) to certify as-built elevations of structures above mean sea level (NGVD).

**ENVIRONMENTAL SITE DESIGN.** Using small scale stormwater management practices, nonstructural techniques, and better site planning to mimic natural hydrologic runoff characteristics and minimize the impact of land development on water resources.

**EPA.** The United States Environmental Protection Agency.

**EQUINE ACTIVITIES.** Equine activities include teaching equestrian skills, participating in equestrian competitions, exhibitions or other displays of equestrian skill, as well as the caring for, breeding, boarding, riding, or training horses. Arenas are permitted in conjunction with an equine activity, shall not be located in the front yard, and shall be setback 100 feet from all property lines. Lighting for outdoor arenas shall not exceed 30 feet in height and is subject to § 1-19-6.500 lighting type and illumination standards.

**ETHANOL.** The intoxicating agent in fermented and distilled liquors; used pure or denatured as a solvent or in medicines and colognes and cleaning solutions and rocket fuel; and as a renewable clean- burning additive to gasoline.

**EXPLOSIVES.** Any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion.

**FAIRGROUND.** Multiple buildings and accessory structures used in connection with: temporary indoor or outdoor events including, without limitation: festivals and exhibitions; fairs (with accompanying entertainment and amusements); agricultural, horticultural, and animal shows;

animal training, and judging; carnivals; food and beverages; and exhibitor booths and stands, games, rides, rodeos, and other customary accessory uses.

**FAMILY CHILD CARE HOME.** The use of property which is licensed by the State of Maryland, as a large or small family child care home pursuant to COMAR 13A, as amended. This use is permitted as a home occupation with minor impact.

**FARM.** A parcel of land not less than 25 acres in size on which an agricultural activity, as herein defined, is being actively conducted.

*FARM ANIMALS.* Those animals ordinarily found on a farm, including but not limited to: horses, ponies, sheep, goats, bulls, buffalo, cows, steers, rabbits raised for commercial purposes, turkeys, pigs, ducks, geese, chickens and guinea hens.

*FARM BREWERY.* An establishment for the manufacture of malt liquors, such as beer and ale, using grains such as barley, wheat, and oats and produced on the farm on which the farm brewery is located. A farm brewery must have a valid class 5 Maryland brewery license, may not brew more than 15,000 barrels of malt beverages per year, and at least a majority of one of the primary grains must be produced on the farm.

**FARM BREWERY TASTING ROOM.** A farm brewery may have 1 accessory structure for the purpose of sampling alcoholic beverages brewed at the farm. For retail sales of brewing products produced on site the farm brewery must have a valid retail liquor license.

**FARM EQUIPMENT SALES OR SERVICE.** The use of property for selling, renting, or repairing agricultural machinery, equipment, and supplies for use in soil preparation, planting, care and harvesting of crops, and operations and processes pertaining to farming.

**FARM WINERY.** The use of the property for the processing of fruit for the production of wine or juice on a producing vineyard, orchard or similar growing area, or a farm. A farm winery must have a minimum of 10 acres, a valid Class IV Maryland wine license and must grow 1 acre of fruit for every 2,000 gallons of wine or juice produced. For purposes of this use, the term "farm" includes contiguous and noncontiguous parcels within the county in active agricultural production which are owned or leased by the processor.

**FARM WINERY TASTING ROOM.** A farm winery may have 1 accessory structure for the purpose of wine tasting and retail sales of winery products.

**FEED** or **GRAIN MILL.** The use of property for manufacturing of food or feed for animals, from ingredients such as grains.

**FEMA FLOODPLAIN.** The combined area of the 100-year frequency flood (including the floodway and floodway fringe), and approximate floodplain.

**FLAMMABLE LIQUIDS.** Any liquid, as defined by NFPA 30, that has a closed-cup flash point below 100 degrees F (37.8 C) including but not limited to: unleaded gas, methanol, and ethanol.

**FLOOD.** General and temporary conditions of partial or complete inundation of normally dry land areas from overflow of inland or tidal waters or rapid unusual accumulation of runoff from any source.

**FLOOD INSURANCE RATE MAP (FIRM).** Map which depicts the minimum special flood hazard area to be regulated by this chapter (unless a floodway map is available).

**FLOOD PROTECTION ELEVATION (FPE).** The elevation of the base flood plus 2 feet freeboard.

**FLOODING SOILS.** Those soils with the characteristic of flooding (the temporary inundation of an area caused by overflowing streams, by runoff from adjacent slopes, or by tides) as identified in the Soil Survey of Frederick County, Maryland and the Web Soil Survey, Water Features table, as amended.

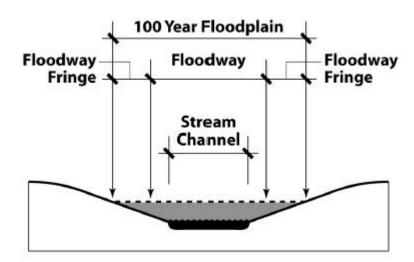
**FLOODPLAIN.** That land typically adjacent to a body of water with ground surface elevations that are inundated by the base flood.

**FLOODPROOFING.** Any combination of structural or nonstructural changes which reduce or eliminate flood damage to improved property.

**FLOODPROOFING CERTIFICATE.** Form supplied by FEMA to certify that a building has been designed and constructed to be structurally dry floodproofed to the Flood Protection Elevation (FPE).

**FLOODWAY.** The channel of a watercourse and adjacent land area required to discharge the waters of the 100-year flood without increasing the water surface elevations above existing 100-year flood conditions more than a specified height.

**FLOODWAY FRINGE.** Those portions of land subject to inundation by the 100-year flood, lying beyond the floodway (where a floodway has been determined) or in areas where detailed study data, profiles, and 100-year flood elevations have been established. The floodway fringe appears on the flood boundary and floodway map and flood insurance rate maps.



**FLOOR AREA OF BUILDING.** The total number of square feet of floor area in a building, excluding cellars. All horizontal measurement shall be made between exterior faces of walls.

**FOOT-CANDLE.** Illuminance produced on a surface 1 foot from a uniform point source of 1 candela.

**FORESTRY.** The management of forest and timberlands through selective tree cutting in accordance with sound forest management practices including planting, cultivating, harvesting, transporting, and selling timber for commercial purposes. No use that is otherwise identified in § 1-19-5.310 as permitted with site plan approval or by special exception is permitted as forestry.

**FREEBOARD.** An increment of elevation added to the base flood elevation to provide a factor of safety for uncertainties in calculations, wave actions, subsidence, or other unpredictable effects.

**FRONT LOT LINE.** A lot line which abuts a road; however the handle of a panhandle lot is not used to compute the front lot line and in such case the front lot line is that line determined to be most parallel to a street on which the lot has frontage.

**FRONT YARD.** An open space, unoccupied and unobstructed by any building extending the full width of the lot equal in depth to the minimum distance required for such yard for the district in which the lot is located from the front lot line.

**FULLY SHIELDED FIXTURE.** A fixture constructed in such a manner that all light emitted by the fixture is projected below the horizontal plane through the fixture.

**GASOLINE.** A volatile mixture of flammable liquid hydrocarbons derived chiefly from crude petroleum and used principally as a fuel for internal-combustion engines.

**GOLF COURSE.** A tract of land laid out for at least 9 holes for playing golf, improved with tees, greens, fairways and hazards. A golf course may include a clubhouse with restaurant/dining facility, a pro-shop, and retail sales of golf equipment as accessory uses.

*GOLF DRIVING RANGE.* A tract of land laid out for a golf driving range improved with tee areas and distance markers. A golf driving range may include a snack bar, a pro-shop, and retail sales of golf equipment as accessory uses.

**GOVERNMENTAL UTILITY.** A utility owned by governmental entity.

*GREEN AREA*. An area of land associated with and located on the same tract of land as principal building or group of buildings in relation to which it serves to provide light and air or scenic, recreational or similar purposes. *GREEN AREAS* may include, but not be limited to lawns, decorative plantings, sidewalks, and walkways, active and passive recreational areas, including playgrounds, fountains, swimming pools, wooded areas and watercourses; but shall not include loading areas, parking areas or vehicle surfaces or accessory buildings.

**GROSS ACRE.** A commonly referred to measure of gross area. (See **GROSS AREA**.)

*GROSS AREA*. All the area within a subdivision plan or plat, including area intended for residential use, steep slopes, local access streets or alleys, off-street parking spaces, subdivision recreation sites or floodplains.

**GROSS DENSITY.** The number of dwelling units per gross acre of a subdivision or land development inclusive of streets, open spaces or nonbuildable areas.

**GROSS LEASABLE AREA.** The total floor area designated for tenant occupancy and exclusive use, including basements, mezzanines and upper floors.

**GROUP HOME, SMALL PRIVATE.** A residence that houses not more than 8 individuals who require specialized living arrangements and provides health services and supervision to those individuals.

**GROUP HOME, LARGE.** A residence that admits at least 9 but not more than 16 individuals who require specialized living arrangements and provides health services and supervision to those individuals.

**GUARDHOUSE.** An accessory structure not to exceed 150 square feet in footprint and 15 feet in height located at the entrance to a property, used for the sole purpose of providing monitoring and control of access to that property.

*GUEST FARM.* A farm used for temporary rental accommodations of no more than 4 guest rooms, which may include meals for guests only, for the purpose of experiencing farm or ranch activities including horseback riding.

*GUEST HOUSE.* An accessory detached structure that is used for occupancy by transient, nonpaying visitors and contains no cooking facilities and covers no more than 400 square feet of total land area.

HARDWARE/GARDEN CENTER. The use of property for the retail sales of various feed and seed products, and basic hardware lines such as plumbing, heating, and electrical supplies and tools. This use includes the sale of retail and wholesale products and produce related to the planting, maintaining, or harvesting of trees, shrubs, plants, grasses or sod, fertilizers, soils, chemicals, or other nursery goods and related products in small quantity to consumers including retail sales of power equipment and machinery such as mowers, trimmers, and other tools and implements.

*HAZARDOUS SUBSTANCE.* Any substance, including oil or its by-products, that:

- (a) Conveys toxic, lethal, or other injurious effects or which causes sublethal harmful alterations to plant, animal, or aquatic life;
- (b) May be injurious to human beings;
- (c) Persists in the environment; and
- (d) Any matter identified as a "hazardous waste" by the environmental protection agency or a "controlled hazardous substance" by the Maryland Department of the Environment.

**HEIGHT OF BUILDING.** The height is measured from the average finished grade ground level along the side of the building nearest the street to either the highest point of a flat roof or to the point one-half the distance between the eaves and the highest point of a pitched roof.

HISTORIC STRUCTURE. A structure listed individually on the National Register of Historic Places, the Maryland Inventory of Historic Properties, a local inventory of historic places certified by the Maryland Historic Trust or the Secretary of the Interior, or preliminarily determined as meeting the requirements for such listing by the Maryland Historic Trust or the

Secretary of the Interior, or determined as contributing to the historic significance of an historic district registered with the Secretary of the Interior.

**HOBBY SHOP.** The use of property for retail sale of hobby or craft supplies, toys, artist supplies, artwork, framing services or collector items, including coins, stamps, autographs, memorabilia, or cards.

**HOME ASSOCIATION.** An incorporated, nonprofit organization operating under recorded land agreements which include the provision that each lot or home owner in a planned unit or other described land area is automatically a member, and that each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities, including the maintenance of common property, and that unpaid charges are a lien against the property.

**HOME OCCUPATION.** Any occupation or business use conducted entirely within a dwelling or an accessory structure, or both, by a resident of the property, and which is clearly an incidental residential use of the building, excluding antique shops in the VC and GC; bed and breakfast; commercial repair or storage of automobiles, watercraft, or other motor vehicles; commercial stables, kennels, and nurseries; mortuary establishments; professional offices; restaurants or tea rooms.

**HORSE TACK AND SADDLERY SHOP.** The use of property for retail sale of tack, or equipment for horses such as saddles or harnesses.

**HOSPITAL.** Any institution which receives in-patients and provides medical, psychological, surgical, or similar service. This definition includes: general hospitals and special service institutions, including the following specialties: cardiac, eye, ear, nose and throat, pediatric, orthopedic, skin or cancer, mental, tuberculosis, chronic disease or obstetrics, sanitariums or sanatoriums, including those which serve the feeble minded, mental patients, epileptics, alcoholics, senile, psychotics or drug addicts.

**HOTEL.** Any building which contains 5 or more guest rooms and where lodging or meals are provided for compensation to 5 or more guests. This definition does not include fraternity or sorority houses, school or college dormitories, tourist home or motel.

**INDIVIDUAL SEWAGE SYSTEM.** A single system of sewers, piping, treatment tanks, or other facilities which serve only 1 lot and dispose of sewage or individual waste of a liquid nature, in whole or in part, on or in the soil of the property or into any waters of this state, or by other methods.

**INDIVIDUAL WATER SUPPLY SYSTEM.** A single system of piping, pumps, tanks or other facilities utilizing a source of ground or surface water to supply only 1 lot.

INDOOR SPORTS RECREATION FACILITY. A building primarily operated for the purpose of providing indoor sports and recreation such as a sports-plex for soccer, lacrosse, racquet sports, gymnastics, and soft play fitness areas, but may also include rock climbing, gymnasium, bowling alley, karate studio, laser tag, paint ball, race track, billiard hall, skating rink, roller rink, batting cage, swimming pool, or other similar uses. This use may also include associated outdoor recreation fields.

**INDOOR THEATER.** A building designed or used primarily for the commercial exhibition of motion pictures or commercial stage presentation to the general public.

**INDUSTRIAL PARK.** A tract of land which is subdivided and developed according to an overall plan for occupancy by a group of industries and is provided with streets and necessary materials, including paper, rags, scrap metal, other scrap or utilities.

**INTENSIVE SWINE FARM.** A facility, building, tract of land or operation used for the raising, feeding or care of 250 or more animals of the porcine species.

**INTERMITTENT STREAM.** A stream in which surface water is absent during a portion of the year as shown on the most recent 7.5 minute topographic quadrangle published by the United States Geological Survey as confirmed by field verification.

**JUNKYARD.** Any land or structure which is used for the abandonment, sale, storage, keeping, collecting or baling of discarded materials, or used for the abandonment, demolition, dismantling, storage, or salvaging or sale of machinery, including 3 or more vehicles which are not in running condition.

**KENNEL.** A facility where 9 or more dogs, cats or other domestic animals over three months of age are kept, raised, sold, boarded, bred, shown, treated, or groomed.

**KEROSENE.** A flammable hydrocarbon oil usually obtained by distillation of petroleum and used for a fuel and as a solvent and thinner (as in insecticide emulsions).

**LANDFILL, INDUSTRIAL WASTE.** Landfill which is designed to accept only nonhazardous industrial solid wastes generated on the site. The criteria for determining if a waste is a hazardous waste shall be in accordance with state and federal guidelines.

**LANDFILL RUBBLE.** Landfill which is designed to accept rubble which would include only land clearing debris, demolition debris, and construction debris as permitted under state guidelines. No tires or asbestos waste will be permitted in a rubble landfill.

**LANDFILL**, **SANITARY**. A solid waste acceptance facility operated by a governmental agency or under contract with a governmental agency permitted under state sanitation regulations that is designed, installed and operated so that all types of waste generated by the general public may be accepted except waste specifically prohibited by state regulations unless a permit issued under state regulations allows the specific waste to be accepted.

**LANDSCAPE CONTRACTOR.** A business principally engaged in the designing, installing, planting or maintaining of yards, gardens or other grounds offsite to include the following: landscape installation, care and maintenance services; lawn care services (i.e., fertilizing, mowing, seeding, sod laying, spraying); plant, shrub and tree services (i.e., bracing, planting, pruning, removal, spraying, trimming); seasonal property maintenance services (i.e., snow plowing in winter, landscaping during other seasons).

**LIGHT TRESPASS.** Light falling outside of the property boundary on which a light installation is located.

**LIMITED FUNERAL ESTABLISHMENT.** A funeral establishment licensed by the Maryland State Board of Morticians and Funeral Directors, meeting the definition of funeral establishment

in the Md. Code Ann., Health Occupations Article, Title 7, Maryland Morticians and Funeral Directors Act, and meeting the criteria as provided in § 1-19-8.230.1 of the Frederick County Zoning Ordinance. The limited funeral establishment shall be operated by a licensed mortician as defined by the Md. Code Ann., Health Occupations Article, Title 7, Maryland Morticians and Funeral Directors Act.

**LIMITED WIND ENERGY SYSTEM.** A single-towered wind energy system that has a rated nameplate capacity of 50 kilowatts or less; and has a total height of 150 feet or less.

**LINGANORE WATERSHED PROTECTION AREA.** The area of land shown on the official Linganore Watershed Protection Area Map, which is maintained in the offices of the Frederick County [Division of Planning and Zoning] DEPARTMENT OF PLANNING AND DEVELOPMENT REVIEW.

**LIQUIFIED PETROLEUM GAS (LP-GAS).** Any material having a vapor pressure not exceeding that allowed for commercial propane composed predominately of the following hydrocarbons, either by themselves or as mixtures: propane, propylene, butane (normal butane or isobutane) and butylenes.

**LOT.** A contiguous area of land separated from other areas of land by separate description, including a recorded deed, a subdivision plat or record of survey map, or by metes and bounds, for purpose of sale, lease, transfer of ownership or separate use.

**LOT AREA.** The total horizontal area of a lot as determined by the closure of the rear, side and front lot lines, but does not include area lying within a street.

**LOT DEPTH.** The horizontal distance between the front and rear lot lines of a lot.

**LOT OF RECORD.** Any lot legally recorded in the land records of the county as of January 24, 1977; a lot must satisfy all zoning and subdivision regulations in effect at the time the lot was recorded.

**LOT TYPES.** The lots with the following definitions.

- (a) *CORNER LOT*. A lot located at the intersection of 2 or more streets. A lot abutting on a curved street or streets is considered a corner lot, if straight lines drawn from the foremost points of the side lot lines to the foremost points of the lot meet at an interior angle of less than 135 degrees. Where a lot contains 3 front yards the remaining yard shall be considered a side yard.
- (b) *INTERIOR LOT*. A lot with only 1 frontage on a street other than an alley.
- (c) *OUTLOT*. A parcel of land within a subdivision which has been included on a preliminary and final plat, but not designated as a buildable lot. Establishment shall only be due to the necessity of providing for access to adjoining properties a continuation of appropriate street patterns, or any other approved governmental use.
- (d) **PANHANDLE LOT.** A lot with the appearance of a "frying pan" or "flag and staff" in which the handle is most often used as the point of access to a street or road. The "handle," when less than the minimum width for a building lot in the zoning district in which it is located, is not to be used in computing the minimum required area or delineating the minimum required "building envelope." The handle shall not be less at any point than the required minimum road frontage.

(e) **THROUGH LOT.** A lot (other than a corner lot) with frontage of more than 1 street other than an alley.

**LOWEST FLOOR.** The lowest floor of the lowest enclosed area, including basement. An unfinished enclosure, constructed of flood-resistant materials used solely for parking of vehicles, storage, or building access in an area other than a basement is not the lowest floor, as long as it is supplied with water equalizing vents.

*MAJOR RECREATIONAL EQUIPMENT*. Mobile apparatus specifically designed for recreational activities and including travel trailers, pickup campers, motorized dwellings, tent trailers, boat trailers, houseboats or storage containers used for transporting recreational equipment.

**MAJOR SUBDIVISION.** Any parcel which has been or is proposed to be subdivided to create 6 or more lots.

**MANUFACTURED HOME OR BUILDING.** A structure, transportable in 1 or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term **MANUFACTURED HOME OR BUILDING** also includes park trailers, travel trailers, and other similar vehicles placed on a site for more than 180 consecutive days.

**MANUFACTURED HOME PARK OR SUBDIVISION.** A parcel or contiguous parcels of land divided into 2 or more manufactured home lots for rent or sale.

*MASTER HIGHWAY PLAN.* The official plan of highways, roads and other ways adopted by the County Planning [and Zoning] Commission and the [Board of County Commissioners] COUNTY GOVERNING BODY in accordance with Md. Ann. Code, [Art. 66B] LAND USE ARTICLE, and includes all subsequent revisions of the plan.

#### MASTER PLAN. See COMPREHENSIVE DEVELOPMENT PLAN.

*MDE*. The Maryland Department of the Environment.

**MEDICAL OR DENTAL CLINIC.** Any building or group of buildings which is occupied by medical practitioners; related services are permitted for the purpose of providing health services on an out- patient basis.

**MINIATURE GOLF COURSE.** A tract of land laid out for at least 9 holes for playing miniature golf, improved with tees, putting surfaces, hazards, and equipment for rental or limited sale. A miniature golf course may include a snack bar, a pro-shop, and retail sales of golf equipment as accessory uses.

**MINIMUM LOT FRONTAGE.** The minimum permissible width of a lot line abutting a street.

**MINIMUM LOT WIDTH.** The minimum permissible width of a lot as measured horizontally along the front building line.

**MINOR SUBDIVISION.** Any parcel which has been subdivided to create 5 or fewer lots.

**MOBILE HOME.** A portable dwelling unit which is designed and built to be towed on its own chassis, including frame and wheels and to be connected to utilities. A **MOBILE HOME** is designed without a permanent foundation for year-round living. A unit may contain parts that can be combined, folded, collapsed, or telescoped while towed and expanded later to provide additional cubic capacity. It must be listed by the state as a mobile home. This does not include modular or sectional homes.

**MOBILE HOME PARK.** Any site, lot, or parcel which is used for the purpose of providing accommodations for 2 or more mobile homes as living quarters and includes all structures, vehicles, accessories and appurtenances used or intended as equipment in such a park. This definition does not include mobile homes used as farm tenant houses.

**MODERATELY PRICED DWELLING UNIT PROGRAM (MPDU).** A program that creates affordable housing units as a function of the development process for income eligible persons by means of an increase in density in a zoning classification that allows residential development above the density permitted within the district.

**MOTEL.** Any group of rooms combined or separate which are used for the purpose of housing transient guests and each unit of which is provided with its own toilet, washroom and off-street parking facilities.

**MOTOR FREIGHT TERMINAL.** A structure or land where truck transported goods are transferred, or stored pending transfer, and which may include truck dispatching, parking and servicing (but no retail sales of motor fuels, oils or accessories) and temporary accommodations for truck drivers.

**MOTORCYCLE HILL CLIMB.** The temporary use of the property for a motorcycle hill climbing event.

**MPDU PROJECT.** Any residential development of 25 or more units on public water and sewer.

**MULTIPLE-FAMILY DWELLING.** A detached building containing 3 or more dwelling units.

**MULTIPLE-FAMILY GROUP DWELLING.** A group of 2 or more multiple-family dwellings, which occupy 1 lot and have a yard, court or service area in common.

**MUSEUM/GALLERY.** A commercial establishment for preserving and exhibiting artistic, historical, scientific, natural, or man-made objects of interest. A museum or gallery may include the sale of the objects, memorabilia, crafts or artwork.

**NATURAL GAS.** A mixture of hydrocarbon gases that occurs with petroleum deposits, principally methane together with varying quantities of ethane, propane, butane, and other gases, and is used as a fuel and in the manufacture of organic compounds.

**NEW CONSTRUCTION.** Within the Floodplain District, a structure for which the start of construction commenced on or after June 1, 1978, and includes any subsequent improvements.

**NONCONFORMITY.** A lot, structure, or use lawfully existing before the effective date of any regulation of this chapter, which does not conform to the current regulations of the district in which it is located.

**NONGOVERNMENTAL ELECTRIC SUBSTATION.** A high-voltage electric system facility used to switch generators, equipment and circuits or lines in and out of a system. It also is used to change AC voltages from one level to another, and/or change alternating current to direct current or direct current to alternating current. Including without limitation a transmission and distribution substation served by transmission lines of 500 kv or greater.

**NONGOVERNMENTAL UTILITY.** Any utility not owned by a governmental entity. Including a transmission and distribution substation for supplying electric service served by transmission lines of less than 500 ky.

**NRCS.** Natural Resources Conservation Service.

**NURSERY RETAIL.** The use of property for the planting, maintaining and harvesting of trees, shrubs, plants, grasses or sod for sale to other nurseries, landscape contractors, retail outlets. This use includes on-site public retail sales related to the planting, maintaining, or harvesting of trees, shrubs, plants, grasses or sod, fertilizers, soils, chemicals, or other nursery goods and related products in small quantity to consumers.

**NURSERY SCHOOL.** A facility operated for the purpose of providing training, guidance, education or care for 4 or more children, all of whom are under 7 years of age and separated from their parents or guardians during any part of the day. This includes kindergartens, day nurseries and day care centers.

**NURSERY WHOLESALE.** The use of property for the planting, maintaining and harvesting of trees, shrubs, plants, grasses or sod for sale to other nurseries, landscape contractors or retail outlets.

**NURSING HOME.** A facility that provides treatment and nursing care by, or supervised by, a registered or practical nurse for 2 or more unrelated individuals suffering from illness, diseases, deformities or injuries who do not require extensive or intensive care such as normally provided in a general or other specialized hospital.

**ONE HUNDRED** (100) **YEAR FREQUENCY FLOOD.** The Base Flood, having 1 chance in a 100 (1% chance) of being equaled or exceeded in any year.

**OUTDOOR CLUB.** The use of property or a facility operated for recreational, educational, or social purposes, such as hunting, fishing, or other similar activity for the exclusive use of members and their guests.

**OUTDOOR SPORTS RECREATION FACILITY.** The use of property for outdoor recreational activities where clearing is minimized including but not limited to field sports, paintball, laser tag, golf driving range, chip and putt, miniature golf, batting cage/range, or putting green or any combination thereof. This use may also include buildings accessory to the primary use of outdoor sports recreation facility.

**OUTDOOR STAGE THEATER.** An open air theatre, including those areas, buildings, or structures used for the commercial presentation of live stage presentations.

**OVERLAY ZONING DISTRICT.** An area where certain additional requirements are superimposed upon a base zoning district or underlying district and where the requirements of the base or underlying district may or may not be altered.

**PAWN SHOP.** Any business that engages in the retail sales of personal property and that also loans or advances money on deposit of personal property on condition of selling the same back again to the depositor.

**PERENNIAL STREAM.** A stream containing surface water throughout an average rainfall year, as shown on the most recent 7.5 minute topographic quadrangle published by the U.S. Geologic Survey, as confirmed by field verification.

**PERMANENT CONSTRUCTION.** Any structure occupying a site for more than 180 days per year.

**PET TRAINING/DAYCARE/GROOMING FACILITY.** An establishment which for a fee provides training, daycare, grooming, trimming, cleaning, and other associated services to domestic pets such as dogs or cats and which may sell pet supplies as an incidental use. This term does not include establishments which board pets overnight. (See **KENNEL**.)

**PETROLEUM PRODUCTS STORAGE.** The storage of: (1) liquefied petroleum gas as defined in National Fire Protection Association (NFPA) Standard 58, as amended; (2) flammable and combustible liquids products as defined in NFPA Standard 30, as amended.

PHOTOMETRIC (PHOTOMETRY). Measurement of the intensity of light and distribution.

**PLACE OF WORSHIP.** A facility or building(s) for the primary purpose of assembly for religious worship. Accessory uses shall be limited to those customarily associated with a place of worship as provided within this chapter (see Article VIII. Division 2. Accessory Uses) or as approved by the Zoning Administrator.

**POWER GENERATION, FARM ANIMAL WASTE.** Activities conducted on a farm for operating gas or electric generating facilities from converted farm waste.

**PRINCIPAL HIGHWAY.** Any road designated as freeway, expressway or major arterial on the County Master Highway Plan.

**PRIVATE CLUB.** An association for civic, social, cultural, religious, literary, fraternal, political, recreational, or like activities which is operated for the benefit of its members and not open to the general public.

**PROCESSING FACILITY.** A combination of structures, machinery, or devices used to reduce or alter the volume, chemical or physical characteristics of solid waste. For the purpose of these regulations, collection points serving rural residential areas are not considered to be processing facilities, provided that solid waste is not transferred from collection vehicles to another transportation unit. A generator who processes his or her own solid waste at the site of generation and disposes of the processed solid waste off the site of generation at a disposal site permitted by the Maryland Department of the Environment is not considered to be a processing facility.

**PROFESSIONAL OFFICE.** Rooms or buildings used as the office of a member of any recognized profession, including doctors, dentists, lawyers, accountants, engineers, or veterinarians, but not including medical or dental clinics or veterinary clinics.

**PROPANE.** A colorless, flammable gas, C3H8, of the alkane series, occurring in petroleum and natural gas, used chiefly as a fuel and in organic synthesis. Also called dimethylmethane.

**PUBLIC BUILDINGS AND PROPERTIES.** Any building or property used or controlled for public purposes by a state, federal, or local government agency, or by a political subdivision of the state within the geographic confines of Frederick County.

**PUTTING GREEN.** A tract of land laid out for golf putting and/or chipping. A putting green may include a snack bar, pro-shop, and retail sales of golf equipment as accessory uses.

**REAL ESTATE SIGN.** A sign advertising for sale, lease, rental or development of any real property or directing attention to the opening of a new subdivision.

**REAR LOT LINE.** The lot line determined to be most parallel to the front lot line. If the rear lot line is less than 10 feet long or the lot comes to a point at the rear, the rear lot line is assumed to be a line not less than 10 feet long, which lies wholly within the lot and is parallel to the front lot line. The rear lot line is parallel to the chord of the arc of said front lot line.

**REAR YARD.** An open space, unoccupied and unobstructed by any building extending the full width of the lot equal in depth to the minimum distance required for such yard for the district in which the lot is located from the rear lot line.

**RECREATIONAL VEHICLE.** A vehicle built on a single chassis which is 400 square feet or less at the longest horizontal projection, self-propelled or towable, and designed primarily for temporary living while traveling or camping and is only occupied when located in an RV park which is approved by the county.

**RECREATIONAL VEHICLE STORAGE FACILITY.** A parcel of land utilized for storing recreational vehicles as defined within this section.

**RESOURCE RECOVERY FACILITY.** A processing facility at which component materials of solid waste are recovered for use as raw materials or energy sources.

- (a) **RESOURCE RECOVERY FACILITY-SEPARATED RECYCLABLES.** A resource recovery facility accepting only recyclables which have been previously separated from the municipal solid waste stream.
- (b) *RESOURCE RECOVERY FACILITY-NON-SEPARATED MATERIALS*. A resource recovery facility accepting anything other than recyclables which have been previously separated from the municipal solid waste stream.

**RECYCLING PICK-UP AND DISTRIBUTION CENTER.** A facility designed for the collection of recyclable materials and distribution of these items to markets accepting these items for processing.

ROAD. See STREET.

#### ROOMING HOUSE. See BOARDINGHOUSE.

**ROADSIDE STAND, COMMERCIAL.** A use, which may incorporate a structure, that offers for sale agricultural products, the majority of which are produced by the owner within the county and within the immediate neighborhood of the location of the use. This use does not include seasonal pumpkin patches, "pick your own" or "cut your own" produce or other agritourism enterprise activities conducted on a farm related to agriculture and accessory to the primary agriculture operation on the farm.

**ROADSIDE STAND, LIMITED.** The use of no more than 1,500 square feet devoted to product sales, which may incorporate a structure, for the sale of agricultural products the majority of which are produced by the owner on site. This use does not include seasonal pumpkin patches, "pick your own" or "cut your own" produce or other agritourism enterprise activities conducted on a farm related to agriculture and accessory to the primary agriculture operation on the farm.

**RODEO.** The use of property for exhibitions featuring animal riding, roping, steer wrestling, bull riding or similar sporting events featuring animals.

**RUSTIC RETREAT/CAMP.** A facility or land used for outdoor skills instruction, recreation, temporary lodging, or a retreat for group meetings or instruction, located in a rural setting which may provide meals, rudimentary facilities, and recreational amenities of a rural nature for participants during the period of the retreat or program only.

**SATELLITE UNIVERSITY OR COLLEGE.** A satellite branch or campus of a college or university that is physically detached from the main university or college area that does not include administrative offices and living quarters, and is smaller than the main campus of an institution.

**SAWMILL.** The use of property where logs are debarked and sawn into dimension lumber. Such operations may include but are not limited to, processing, drying, finishing, or shipping of lumber, and commercial firewood processing.

SCD. Soil Conservation District.

**SCHOOL BUS PARKING.** The use of property for the storage and minor incidental repair of operational school buses for providers currently having contracts with the Board of Education of Frederick County or nonpublic schools in Frederick County. This definition does not include individual school bus drivers that park a school bus at their residence during off hours.

*SCHOOL, PRIVATE.* A private educational program for students for the teaching of children including primary and secondary schools.

**SCHOOL, PUBLIC.** An educational program for students approved by the Maryland State Department of Education for the teaching of children or adults including elementary and secondary schools, and similar facilities. Charter schools funded by the state are included in this definition.

**SELF-STORAGE UNITS.** A building or group of buildings consisting of individual, self-contained units leased or rented to individuals, organizations, or businesses for self-service

storage of personal property and where no commercial transactions are permitted other than the leasing and rental of the storage units.

**SEWAGE SLUDGE.** The accumulated semi-liquid suspension, settled solids or dried residue of these solids that is deposited from sewage in a municipal waste water treatment plant, whether or not these solids have undergone treatment.

**SHARED PARKING.** A public or private parking area used jointly by two or more uses through a legal agreement, which results in a reduction in a portion of the required off-street parking spaces for one or more of those uses.

**SHOOTING RANGE/CLUB - TRAP, SKEET, RIFLE, ARCHERY.** A permanently located and improved area that is designed and operated for the safe use of trap, skeet, rifles, archery, pistols, shotguns, black powder or any other similar sport shooting at targets.

**SHOPPING CENTER.** A group of 6 or more retail stores, service establishments and other similar uses, which are designed as an integrated unit.

**SIDE LOT LINE.** Any lot line other than a front lot line or a rear lot line.

**SIDE YARD.** An open space, unoccupied and unobstructed, any building extending in from the front building line to the rear building line, equal in depth to the minimum distance required for such yard for the district in which the lot is located from the nearest side lot line.

**SIGN.** Any structure, or device, in whole or part, which uses symbolic representations to direct attention, to identify or advertise any activity, person, group of people or thing. This definition does not include delivery vehicles used in the operation of the business.

SIGN, AREA OF. The entire area within a single continuous perimeter enclosing the extreme limits of writing, representation, emblem or any figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed; excluding the necessary supports or uprights on which such sign from the background against which it is placed; excluding the necessary supports or uprights on which such sign is placed. Where a sign has 2 or more faces, the area of all faces shall be included in determining the area of the sign except that where 2 such faces are placed back to back and are at no point more than 2 feet from one another. Excluding necessary supports or uprights, the area of the sign shall be taken as the area of 1 face if the 2 faces are of equal area, or as the area of the larger face if the 2 faces are of unequal area. In the case of individual letters placed on a structure, the entire area based on the stroke of each letter shall be used in the computation of such sign area.

**SINGLE-FAMILY DWELLING.** A detached dwelling designed for or used exclusively by 1 family.

**SLUDGE AMENDED YARD WASTE.** A process whereby sewage sludge and yard waste are combined to create a compost.

**SLUDGE PIT/SLUDGE HOLDING TANK.** A facility designed for the holding of sewage sludge for a period of time prior to disposal typically constructed in conjunction with governmental uses.

**SOLAR ARRAY.** A ground mounted solar collection system consisting of a linked series of photovoltaic modules.

**SOLAR COLLECTION SYSTEM.** A panel or other solar energy device, the primary purpose of which is to provide for the collection, inversion, storage, and distribution of solar energy for electricity generation, space heating, space cooling or water heating.

**SOLID WASTE.** Any garbage, refuse, sludge or liquid from industrial, commercial, mining or agricultural operations or from community activities.

**SOLID WASTE COMPOSTING.** The process by which organic solid waste is biologically decomposed under controlled conditions to yield a nuisance-free, humus-like product. Typically constructed in conjunction with governmental uses.

**SOLID WASTE GENERATOR.** A residential, commercial, industrial or governmental facility that creates solid waste through a process of providing a product or service as long as this process does not require solid waste or components of solid waste as part of the material in the process.

**SPECIAL EXCEPTION.** A grant of a specific use that would not be appropriate generally or without restriction and is based upon a finding that certain conditions governing special exceptions as detailed in this chapter exist and that the use conforms to the Comprehensive Development Plan and is compatible with the existing neighborhood.

**SPRING WATER HARVESTING OR STORAGE.** The use of property for collection, storage, purification and transportation of spring water.

START OF CONSTRUCTION. The date the building permit was issued for any development, including new construction and substantial improvements to existing structures, provided that the actual start of construction or improvement was within 180 days of the permit issuance. The actual START OF CONSTRUCTION is the placement of slab or footings, piles, columns, or any work beyond the stage of excavation; or the actual placement of a manufactured home on the site. For substantial improvement, the START OF CONSTRUCTION is the first alteration of any structural part of the building. Permanent construction, as used in this definition, does not include land preparation such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basements, footings, piers, foundations, or erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not as part of the main structure.

**STORAGE TANK, GASOLINE.** The use of property for an aboveground storage tank (AST) or container designed for the storage of petroleum products with a capacity not to exceed 1,100 gallons. This use is prohibited within wellhead protection areas, see Article IV, § <u>1-6-50</u> of the Wellhead Protection Code.

**STREET.** The term **STREET**, **ROAD** or **HIGHWAY** means a public way for vehicular traffic of such width, design, construction and specifications, as the Master Highway Plan and regulations now require or might hereafter require and is a public right-of-way which provides primary access to abutting properties. The term also applies to rights-of- way under county ownership

prior to the enactment of this chapter. The county's highways and streets are classified according to the Comprehensive Development Plan (Master Highway Plan section).

*STRUCTURAL ALTERATION.* Any change in the structural members of a building, including walls, columns, posts, beams, or girders.

**STRUCTURE.** A walled and/or roofed building, including but not limited to, a gas or liquid storage tank, a building foundation, platform, deck, swimming pool, bulkhead or greenhouse that is principally above ground and attached to a permanent site or location.

**SUBDIVIDE.** The act of creating a subdivision, as herein defined.

**SUBDIVISION.** The division of a lot, tract or parcel of land into 2 or more lots, plats, sites or other divisions of land for the purpose, whether immediate or future, for transfer of ownership or building development of the land or territory subdivided.

**SUBSTANTIAL DAMAGE.** Damage by any means sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT.** Any repair, reconstruction, alteration, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure (less land value) either:

- (a) Before the improvement or repair is started; or
- (b) If the structure incurred substantial damage and has been restored, before the damage occurred. *SUBSTANTIAL IMPROVEMENT* occurs when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. Substantial improvements will be calculated on a cumulative basis. The minimum repairs needed to correct previously identified violations of local health, safety or sanitary codes and alterations to historic structures which do not preclude their continued designation as historic structures are not considered substantial improvements. The term also includes structures which have incurred substantial damage regardless of the actual repair work performed.

**TEMPORARY STRUCTURE.** Any structure completely removed within 180 days from issuance of the permit.

**TENANT FARMHOUSE.** A single-family detached dwelling or a separate dwelling unit within the principal structure located on a farm.

TOWERS. Include, but are not limited to:

- (a) **LATTICE TOWER.** A structure which consists of vertical and horizontal supports and metal crossed strips or bars to support antennae and connecting appurtenances. **LATTICE TOWERS** may be freestanding or supported by wire guys. (See **GUYED TOWER**.)
- (b) *MONOPOLE TOWER*. A structure which consists of a single freestanding pole structure to support antennae and connecting appurtenances.

(c) *GUYED TOWER*. Any communications tower using wire guys connecting above grade portions of a communications tower diagonally with the ground to provide support for tower, antennae, and connecting appurtenances.

**TOWNHOUSE DWELLING.** One of a series of 3 or more attached dwelling units separated from one another by continuous vertical party walls which are without openings from lowest level floor to the highest point of the roof.

**TRANSFER STATION.** A place or facility where waste materials are taken from one collection vehicle (for example, compactor trucks) and placed in another transportation unit (for example, over-the-road tractor-trailers, railroad gondola cars, barges or ships) for movement to other solid waste acceptance facilities. For the purpose of these regulations, collection points serving rural residential areas are not considered to be transfer stations, provided that solid waste is not transferred from a collection vehicle to another transportation unit. The movement or consolidation of a single generator's solid waste at the site of generation may not be considered to be a transfer station.

**TRUCK STOP AND FILLING STATION SERVICE FACILITY.** A structure or land used or intended to be used primarily for the sale of fuel for trucks and, usually, incidental service or repair of trucks; or a group of facilities consisting of such a use and attendant eating, sleeping, or truck parking. This use is prohibited in all zoning districts except highway service and general industrial.

**TWO-FAMILY DWELLING.** A dwelling which is located on a lot, contains no more than 2 dwelling units which are arranged 1 above the other or side by side. No more than 1 family occupies either dwelling unit.

*UNDERGROUND STORAGE TANK.* An underground storage tank, connected piping, underground ancillary equipment, and containment system, if any.

*USE*. The principal purposes for which a lot or the main building thereon is designed, arranged, or intended, and for which it is or may be used, occupied or maintained.

**UTILITY.** Any facility erected, constructed, altered or maintained as part of an integrated system or program designed to furnish necessary services for the public health, safety or convenience, including water, electric, gas, communication (cable, wireless, satellite, telephone), steam or sewer. Facilities include all buildings, structures, and land used to house the utility and equipment, including facilities for the production of electricity through solar collection or wind generation, substations for transforming, boosting or switching purposes; regulators; stationary transformers and other such devices for supplying electric service at voltages less than 500 kv; storage yards; and above ground pipelines.

**VARIANCE.** A modification of yards, areas or other dimensional requirements in this chapter which are not contrary to the public interest. A **VARIANCE** may be allowed only when conditions peculiar to the property and not caused by applicants actions would make literal enforcement of the dimensional requirements of this chapter an unnecessary hardship.

**VETERINARY CLINIC.** The use of property for the practice of veterinary medicine, dentistry, or surgery for animals.

**VILLAGE CENTER GROWTH AREA.** For the purpose of development within the Village Center Zoning District, growth areas are regional and district communities as identified in the county's comprehensive development plans as areas intended for growth and planned for public water and sewer.

**WATERBODY.** Intermittent and perennial streams, rivers, lakes and ponds, but excluding stormwater management ponds. See § <u>1-19-9.400</u>.

**WATERCOURSE.** Natural or once naturally flowing (perennially or intermittently) water including rivers, streams, and creeks. Includes natural waterways that have, are, or have been channelized, but does not include man-made channels, ditches, and underground drainage and sewage systems.

WELLHEAD PROTECTION AREA (WHPA). That land area overlying the aquifer which contributes water to a municipal or community water supply well or spring under the permitted withdrawal rate (average annual) and average annual recharge conditions that can be anticipated based on historical data. It is bounded and may be influenced by the ground water divides which result from pumping the well and by the contact of the aquifer with less permeable geologic boundaries. In all cases, the wellhead protection area shall extend upgradient to its point of intersection with prevailing hydrogeologic boundaries (a ground water flow divide, a contact with geologic formations, or a recharge boundary), or be limited by time-of-travel. The wellhead protection area shall be delineated by MDE and mapped as a result of source water assessment reports.

**WET SOILS.** Soils set forth in the "Soils Interpretation and Water Features Report" as extracted from the Frederick County, Maryland Soils Survey Supplement Text and Tables published by the Catoctin and Frederick Soil Conservation District (issued May 1985 or as amended).

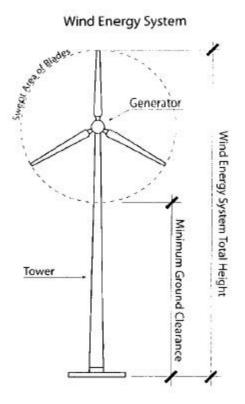
**WETLAND.** Any land which is: (1) considered private wetland or state wetland pursuant to Title 9, Wetland and Riparian Rights, Natural Resources Article, Annotated Code of Maryland; or (2) defined as wetland under the procedures described in the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands" by the Federal Interagency Committee for Wetland Delineation, 1989, as amended.

**WIND ENERGY SYSTEM.** Equipment that converts and stores or transfers energy from the wind into electricity or other usable forms of energy. This equipment includes any base, vane, blade, foundation, generator, alternator, tower, transformer, tail, wire, inverter, batteries, guy wire or other component used in the system.

**WIND ENERGY SYSTEM TOTAL HEIGHT.** The vertical distance from ground level to the tip of a wind generator vane or blade when the tip is at its highest point.

**WIND GENERATOR.** Blades and associated mechanical and electrical conversion components mounted on top of the tower.

**WIND TOWER.** The monopole, freestanding, or guyed structure that supports a wind generator.



**WOOD WASTE RECYCLING FACILITY, LIMITED.** A facility that accepts natural wood waste such as stumps, tree limbs, and yard waste. A limited wood waste recycling facility produces a variety of products from this waste including mulch and compost, for retail sales.

**WOOD WASTE RECYCLING FACILITY, UNLIMITED.** A facility that accepts natural wood waste such as stumps, tree limbs, processed wood products, and yard waste. A wood waste recycling facility produces a variety of products from this waste including mulch and compost, for retail sales. For the purposes of this definition processed wood products is wood waste that includes cutoff, untreated pieces of lumber.

**YARD STORAGE.** The use of property for the storage, stockpiling, or safekeeping of any equipment, products or materials (in usable condition) which are not being specifically displayed as merchandise or for the purpose of outdoor sales display.

**ZONE.** An area within which structures and land are subject to identical regulations which permit or prohibit certain uses. The **ZONE** also establishes other requirements, including yards and other open space, lot areas, and building height limits.

**ZONING ADMINISTRATOR.** The chief administrative officer in charge of zoning administration within the [County Planning Department] DEPARTMENT OF PLANNING AND DEVELOPMENT REVIEW.

**ZONING MAP.** The zoning maps of the county, together with all amendments thereto subsequently adopted.

**ZOO/BOTANICAL GARDEN/ ARBORETUM.** A public or private facility for the exhibition and observation of animal and plant displays.

(Ord. 77-1-78, 1-24-1977; Ord. 79-19-145, 8-7-1979; Ord. 80-24-176, 8-26-1980; Ord. 80-31-183, 10-7-1980; Ord. 81-13-203, 5-26-1981; Ord. 81-29-219, 9-29-1981; Ord. 82-19-263, 9-7-1982; Ord. 86-37-414, 8-26-1986; Ord. 89-1-532, 1-3-1989; Ord. 89-2-533, 1-3-1989; Ord. 89-41-572, 6-6-1989; Ord. 89-42-573, 6-6-1989; Ord. 89-51-582, 8-15-1989; Ord. 90-30-628, 6-19-1990; Ord. 90-44-642, 11-20-1990; Ord. 90-46-644, 11-20-1990; Ord. 91-13-013, 6-4-1991; Ord. 91-32-032, 11-19-1991; Ord. 92-04-039, 2-18-1992; Ord. 92-19-054, 8-8-1992; Ord. 92-22-057, 10-6-1992; Ord. 92-23-058, 10-6-1992; Ord. 93-19-083, 9-13-1993; Ord. 94-28-123, 12-8-1994; Ord. 96-17-169, 8-6-1996; Ord. 99-02-229, 3-16-1999; Ord. 99-14-241, 11-23-1999; Ord. 00-28-270, 9-7-2000; Ord. 03-03-326, 3-4-2003; Ord. 03-09-322, 11-21-2002; Ord. 05-25-386, 9-27-2005; Ord. 05-29-390, 10-25-2005; Ord. 06-24-420, 6-20-2006; Ord. 06-42-438, 11-30-2006; Ord. 07-16-456, 5-15-2007; Ord. 07-21-461, 6-12-2007; Ord. 07-24-464, 7-10-2007; Ord. 07-27-467, 6-19-2007; Ord. 07-29-469, 9-4-2007; Ord. 07-31-471, 10-15-2007; Ord. 07-32-472, 7-17-2007; Ord. 07-34-474, 11-6-2007; Ord. 08-21-497, 8-5-2008; Ord. 08-26-502, 10-14-2008; Ord. 09-05-509, 2-17-2009; Ord. 09-11-515, 4-28-2009; Ord. 09-21-525, 6-4-2009; Ord. 09-27-531, 11-3-2009; Ord. 10-01-536, 1-19-2010; Ord. 10-20-555, 8-24-2010; Ord. 10-31-566, 12-21-2010; Ord. 11-06-572, 5-17-2011; Ord. 11-25-591, 10-27-2011; Ord. 12-08-603, 4-17-2012; Ord. 12-23-618, 9-6-2012; Ord. 13-25-653, 10-31-2013)

### Cross-references:

Subdivisions, see Chapter 1-16

Building Code, see, § <u>1-6-16</u> et seq.